MAN *vs.* MAN'S EXRS.

BILL.

ERRATA,

WHICH, IN THE PRINTED BILL FILED, ARE CORRECTED WITH A PEN.

Table of Contents, p. iii., line 40, *for* "D." *read* "Ll."
Page 1, line 15, *after* "last" *insert* "named."
" 6, " 39, *for* "it; except" *read* "it. Except."
" 9, " 19, *for* "will" *read* "bill."
" 27, " 31, *dele* "fine."
" 50, " 5, *for* "prerecorded" *read* "unrecorded."
" 51, " 7, *before* "in" *insert* "that."
" " " " " "would" *insert* "they."
" 61, " 5, *for* "lastly" *read* "lately."
" 62, " 38, *for* "control; should" *read* "control. Should."
" 65, " 37, *dele* "of" the sixth word of the line.
" 66, " 1, *dele* "that he."
" " " 44, *for* "Nartigne" *read* "Nartigue."
" 67, " 31, *before* "received" *insert* "or thereabouts."
" " " 41, *for* "precisely" *read* "nearly."
" " " 42, *after* "of" *insert* "$1,287$\frac{48}{100}$ or."
" 69, " 10, *for* "Nartigne" *read* "Nartigue."
" 82, line 31, *for* "thereabout" *read* "thereabouts."
" 88, " 45, *for* "greatest" *read* "greater."
" 100, " 6, *for* "devices" *read* "devises."
" 101, " 32, *for* "insiduously" *read* "insidiously."
" 103, at top, insert "of."
" 105, in syllabus, § 57 *for* "increase" *read* "income."
" 120, line 43, *for* "Nartigne" *read* "Nartigue."
" 121, " 4, *for* "this" *read* "the."
" " " 26, *for* "Nartigne" *read* "Nartigue."
" 122, " 5, *for* "in" *read* "claims, demands, and dividends, due or becoming due from."
" 126, " 30, *for* "in" *read* "and."
" 127, " 16, *after* "in" *insert* "one."
" 128, lines 18 and 19, *for* "over and above what was not" *read* "or was not some amount greater than that"
" 134, line 7, *for* "-tigated for" *read* "-tigation."
" " " 8, *dele* "as."
" 146, " 23, *for* "F. H." *read* "T. H."
" 148, lines 38 and 39, *for* "ascertained in . . . . . "Suit value not ascertained" *read* "ascertained, in suit, value not ascertained."
" 153, line 9, *before* "other" *dele* "of."
" 157, " 18, *for* "CIDUEN" *read* "CRAVEN."
" " In syllabus of Exh. 11, *for* "R. L. D." *read* "R. L. Ll."
" 171, line 35, *after* "Daniel" *insert* "Man."

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To the Judges of the Court of Common Pleas of Philadelphia County sitting in Equity.

§ 1. Parties.

William Man brings this his bill of complaint against John Jordan, Junior, executor of the last will and testament of Daniel Man, the elder, deceased, and one of the executors of the last will and testament of Daniel Man, the younger, deceased; which said Daniel Man, the younger, was in his lifetime the executor of the last will and testament of the said Daniel Man, the elder; the said Jordan being also trustee of the assigned estate of Abraham Peisch; Samuel W. Paul, the other executor of the last will and testament of the said Daniel Man, the younger, deceased; Louisa S. Arnel, otherwise called Louisa S. Anson, Edward S. Anson, George Ernest Anson, Walter Anson, and Jane Anson, devisees and legatees of the said Daniel Man, the younger, deceased; the four last parties being minors, of whom respectively the complainant prays that the court will appoint some suitable person or persons guardian or guardians, *ad litem*, unless a guardian or guardians of all or of one or more of them shall be appointed by the Orphans' Court; Daniel Man King, a minor, and Robert Hays, his guardian; George Earp, the younger, substituted trustee of the estate of John B. Foussat, under a deed of assignment hereinafter mentioned, and trustee of the estate of the said Foussat under his discharge as an insolvent debtor, and Harvey Hand, administrator of the goods, &c. of the said Foussat, who died intestate.

And thereupon your orator complains and says as follows:—

§ 2. Death and family of Daniel Man, Senior.

On or about the 13th day of January, 1852, the said Daniel Man, the elder, aged ninety years, father of the complainant, died at his residence in the city of Philadelphia. He had been a widower more than sixteen years. His only surviving issue were a son, the said Daniel Man, the younger, since deceased, then

in the fortieth year of his age, the complainant, then in his thirty-fifth year, and an infant grandson, Daniel Man King, only child of his deceased daughter, Jane King. Of this child, then in his seventeenth year, the father was likewise dead. The said Daniel Man, the elder, under an appointment of the Orphans' Court of Philadelphia County, made on the first day of January, in the year 1842, had been from that time until his death, guardian of this infant.

¿ 3. His will and codicils.

On the 21st day of January, 1852, writings, of which as part of this bill copies are hereto annexed, one of them purporting to be the last will and testament of the said Daniel Man, the elder, dated on the 27th day of November, 1850, the other purporting to be a codicil thereto, dated on the 11th day of December, 1850, were proved by the subscribing witnesses before the register of the said county in the common form in which uncontested probates of such instruments are taken. According to the purport of these writings, their effect was to give a legacy of three hundred dollars to Margaret Bowman, the testator's housekeeper; one-third of his estate, real and personal, to the said Daniel Man, the younger, and his heirs, over and above what the testator had already given to him; this share, in the event of his decease before the testator's death, to pass as he, the said Daniel Man, the younger, might by last will or writing in nature thereof limit or appoint; another third to the said Daniel Man, the younger, and his heirs, in trust for the use of the complainant and his heirs in the manner and subject to the powers, provisos, and limitations therein mentioned; and the other third to the said Daniel Man, the younger, and his heirs, in trust for the use of the said Daniel Man King and his heirs, in the manner, and subject to the powers, provisos, and limitations therein mentioned, as will on reference thereto more fully and particularly appear. The said Daniel Man, the younger, was appointed executor, with power to use the testator's personal, for repairing and building upon his real estate, and to sell any part or parts of his real estate, and reinvest in real estate, or invest on interest according to law. In the event of his decease before the complete execution of the trust, the defendant, John Jordan, Junior, was appointed executor and trustee.

¿ 4. Letters testamentary thereof.

Letters testamentary of the said writings, as the last will of the said Daniel Man, the elder, and codicil thereto, were upon the said probate thereof granted by the said register to the said Daniel Man, the younger, who thereupon assumed upon himself the executorship.

§ 5. Inventory.

An inventory, so called, of the personal estate of the said Daniel Man, the elder, in the handwriting of the said Daniel Man, the younger, was prepared by him, and completed on or about the 20th day of the next ensuing month of February, 1852. On the 21st of the same month, it was filed in the office of the said register, when an appraisement, so called, of the subjects thereof was made. The complainant refers to a true copy of the said inventory, so called, and appraisement, so called, hereto annexed, and prays that the same be taken as part of his bill. The whole actual value of the subjects thereof did not exceed a tenth, or ninth, or some other small proportion, of $\$183{,}455\frac{50}{100}$, which is their nominal aggregate amount as they are summed up at the foot thereof.

§ 6. Its omissions, and averment of fraudulent intent.

The said inventory, so called, omits to mention any of the several amounts in which the said Daniel Man, the younger, was liable to the estate of the said Daniel Man, the elder, for and by reason of the frauds, artifices, and deceptions hereinafter mentioned, or was accountable to the estate of the said Daniel Man, the elder, under the agency or agencies or trusts as to which it is one of the purposes of this bill to obtain the discovery account, and other relief particular and general hereinafter prayed. The complainant avers that the said omissions by the said Daniel Man, the younger, were on his part fraudulent concealments of the said frauds, artifices, deceptions, agencies, trusts, liabilities, and accountabilities, intended to deceive and injure the complainant and the said Daniel Man King, and to prevent them from learning the truth on these subjects.

The said inventory, so called, moreover, contains no specification or mention of the subjects of any of the several writings purporting on their face to be transfers or deeds of gift to the said Daniel Man, the younger, from the said Daniel Man, the elder, obtained from him, when superannuated and enfeebled in body and mind, through the fraudulent contrivances and artifices of the said Daniel Man, the younger, hereinafter set forth, and fraudulently misused and misapplied by him, as hereinafter shown; as to which pretended deeds of gift or transfers, it is a further purpose of this bill to obtain the court's decree that the same respectively were never delivered, or were not knowingly, or understandingly, or advisedly executed, or were executed under the trust and accountability hereinafter set forth, of and concerning the same; and that the same if otherwise valid or effectual and absolute, according to their purport, were procured through fraud, deception, abuse of confidence, and undue

influence practised, or unfair advantage taken, by the said Daniel Man, the younger, as hereinafter shown; and that the same were, for some or all of these reasons, of no effect or validity, and ought to be declared null and void, or to be set aside and cancelled, or were attended with a liability to account to the said Daniel Man, the elder, and his estate and representatives, as hereinafter specified. The complainant here avers, that the said Daniel Man, the younger, fraudulently intending to assert title in himself under these pretended transfers as absolute gifts enuring to his own use and benefit, and attended with no accountability on his part, artfully and deceitfully omitted to specify or mention them or the subjects thereof in the said inventory, in order the better to conceal their existence from the complainant and the said Daniel Man King; and that this was a part of the general scheme of deception and artifice on the part of the said Daniel Man, the younger, hereinafter disclosed.

§ 7. Concealment by Daniel Man, Jr., from complainant, of their father's death.

On the same day aforesaid on which the said inventory and appraisement, so called, were filed, as has been stated, in the Register's office at Philadelphia, the complainant, ignorant of the death of his father, arrived at New York from California by the way of Panama, and communicated the fact of his arrival to his brother, the said Daniel Man, the younger. The relations of the latter to their father's estate, with reference to various matters hereinafter detailed, were such that the consummation of his fraudulent designs, hereinafter specified, would probably have been frustrated by the complainant's immediate presence and continued sojourn in Philadelphia. In order to gain time for the consummation of these designs, or with some other fraudulent purpose, the said Daniel Man, the younger, therefore, on the receipt of the said intelligence of the complainant's arrival at New York, conceived and artfully executed the deceptive contrivance of concealing their father's death from the complainant; intending to keep him in ignorance thereof until after such consummation of the said artful and fraudulent designs.

§ 8. So much of complainant's private history as may serve to explain why and how this concealment was practised.

The circumstances of the complainant's private history, which he will next relate, were such as may have induced the said Daniel Man, the younger, to conceive that the detection of this artifice was less probable than it would have been in any ordinary case.

In September, 1835, the complainant, then only about eighteen years of age, had commenced a

seafaring life. He then left Philadelphia, the place of his nativity, and sailed from Sag Harbor on a whaling voyage. After an absence of two years and a half, he returned to the United States. In the summer of 1838, he sailed on another whaling voyage, and returned in the spring of 1839. A few weeks after his return, he engaged at Sag Harbor in commercial business, which he relinquished in the following year. He never resumed his residence at Philadelphia. In the early part of 1840, he came from Sag Harbor on a short visit to Philadelphia. He there incurred the displeasure of his said father, whose feelings were estranged from him, and whom he afterwards never saw. In the fall of 1840, the complainant again went to sea, without having effected a reconciliation with his said father. He did not return to the United States until the spring of 1843. In the meantime, he had, from different parts of the world, written to his said father letters to which he never received answers; and he does not certainly know that any answers to them were ever written. But he entertained and cherished the belief that his father's said estrangement of feeling was only temporary. Recent information convinces him of the correctness of this belief which he thus at first entertained. Through fraud and artifice, as hereinafter mentioned, he was afterwards deceived, and was at last led to entertain a contrary belief. He again went to sea in the fall of 1843, and did not return to the United States until the fall of 1844. He visited Philadelphia in the spring of 1843, and again in the fall of 1844, shortly after his return from each of the two last mentioned voyages respectively. On each of these occasions, he remained in Philadelphia a few days only; during which he saw the said Daniel Man, the younger, who resided with their said father, and on whom he relied for information as to the state of his father's feelings towards him. The said Daniel Man, the younger, always discouraged him from seeing their said father; intimating that reconciliation with him was hopeless, and that an interview would be not only useless but prejudicial, &c. The complainant, who had on each occasion desired anxiously to obtain an interview with his father, was, on each occasion, through these representations, induced reluctantly to desist from his endeavors to obtain one.

Before the end of the fall of 1844, he again left the United States, and was absent until March, 1848. In the spring of 1848, he made, as before, a visit of a few days to Philadelphia. He there, in like manner, saw the said Daniel Man, the younger, who then, as before, spoke to him of their father's feelings as being still those of unmitigated estrangement from him; re-

peating such advice as had, on the two former occasions, been given as aforesaid. The complainant, by this time hopeless of a reconciliation, acquiesced as before, and left Philadelphia; to which place he did not return for nearly four years. In February, 1849, he sailed from New York for California, by way of Panama. After a detention of nearly three months at Panama, and a voyage of two and a half months from the latter port, he reached San Francisco, in August of that year. He remained there about two years and a half. During about eighteen months of this period, he was in the Revenue Collection Service of the United States as an inspector of the customs. On the 20th of January, 1852, he left California for New York, by the way of Panama; and arrived at New York, as has been stated, on the 21st of February, 1852.

For twelve years, from 1840 to 1852, he had thus been in Philadelphia three times only; each time for a few days only. His father's feelings towards him he now believes to have been, during several years of this period, those of revived paternal affection. The existence of such feelings in his father's breast, and every fact indicating the probability, or possibility, of reconciliation with him, though well known to the said Daniel Man, the younger, were always studiously, and, as the complainant is constrained to aver, fraudulently, concealed from him, by the said Daniel Man, the younger. He who should have been the complainant's protector, and the mediator of reconciliation with his said father, was thus, as the complainant now believes, the cause of their continued estrangement.

§ 9. Their interview at New York after their father's death.

The said Daniel Man, the younger, in February, 1852, on receiving, as aforesaid, information of the complainant's arrival at New York, at once came thither; and there saw him; and, in execution of the said fraudulent design, spoke to him of their deceased father as though he were still living, and entertaining unaltered feelings of resentment towards the complainant; advising him to go to Europe, and remain there until their father's death; and promising to furnish him, from time to time, with money for his necessary wants there. Without entertaining a doubt of his brother's truth or sincerity, the complainant, yielding to this advice, promised to conform himself to it; except with reference to their father, the advice coincided with his own wishes, as he had not then, on any other account, a desire to remain long in the United States. The said Daniel Man, the younger, returned to Philadelphia, leaving the complainant in New York.

§ 10. Complainant's subsequent departure for Europe in ignorance of their father's death.

On the 5th of the next ensuing month of March, 1852, the complainant telegraphed his said brother that he would go in the steamer Herman, which was to sail for Europe on the 7th of that month; and on the 6th of that month telegraphed his said brother to come to New York that evening with a trunk. The said Daniel Man, the younger, came to New York, accordingly, to take leave of the complainant. The same secrecy as to their father's death was maintained by him; and the complainant sailed in the Herman for Europe, in entire ignorance of it.

§ 11. Vessel puts back in distress.

In consequence of a disaster at sea, which rendered the Herman unable to prosecute her voyage, she returned to New York for repairs. The complainant thereupon telegraphed the said Daniel Man, the younger, on the 17th of the said month of March, in the words "Herman returned. Be at home this evening." This, as well as the two prior telegraphic communications above mentioned, all indorsed by and in the handwriting of the said Daniel Man, the younger, as letters of the respective dates from the complainant, are now, as he avers, in the possession or control of the defendants, or some of them; and he prays that they be produced in evidence.

§ 12. Interview at Philadelphia.

During the said evening of the 17th of March, 1852, the complainant arrived at Philadelphia, and reached his father's late dwelling-house; believing that he and the said Daniel Man, the younger, were still living in it as formerly. The complainant has recently ascertained that until their said father's death, the said Daniel Man, the younger, had professedly continued to reside with him, occupying, or professing to occupy, a chamber in the said house; but, shortly after his death, left it, and thereafter resided altogether at another house in Philadelphia hereinafter mentioned. On the receipt of the said last-mentioned telegraphic communication, the said Daniel Man, the younger, gave to the said former housekeeper, Margaret Bowman, who retained under him the charge of his said father's late dwelling-house, instructions under which a fire was made in the room which their said father had usually occupied in his lifetime. The said Daniel Man, the younger, arranged everything in this room in such a manner that it presented an appearance similar to that which might have been presented if their father had been living there as formerly, and had retired for the night from the said room to his bed-chamber. The said Daniel Man, the younger, then awaited the complainant's arrival; opened

the front door himself to admit him, and took him to the room which had been thus deceptively prepared for his reception. Their conversation was to the same effect as that which had occurred, as aforesaid, in former years, and more recently at New York; the said Daniel Man, the younger, telling the complainant that it would not answer for him to see their father; and advising him to return the next morning to New York; saying that he would accompany him part of the way thither. The complainant then went away, and passed the night at a public house designated by the said Daniel Man, the younger, who, the next morning, called there for him, and went with him part of the way to New York. They took leave of each other; the complainant pursuing his journey to New York in utter ignorance of his father's death.

§ 13. Complainant again leaves for Europe, in like ignorance.

In like ignorance thereof, he sailed again for Europe, and early in the following month arrived in England.

§ 14. Artifices of D. Man, Junior, to conceal his perpetrated and intended frauds.

The said Daniel Man King, who was at a boarding-school, had then no guardian to protect his interests. The complainant having been got out of the way, as aforesaid, for an indefinite period, the said Daniel Man, the younger, anticipated, as the complainant believes, no investigation of the subjects of the said frauds and accountabilities, or challenge or denial of his apparent title to the several subjects of the pretended transfers or deeds of gift purporting to have been made to him by the said Daniel Man, the elder, as hereinafter mentioned. But the better to elude the discovery of the artifices through which he had procured their execution, and conceal the deceptive contrivances through which he had converted their subjects to his own use, and conceal his other frauds aforesaid, he availed himself, as the complainant believes and avers, of this interval of supposed comparative security, to make certain falsifications and erasures of entries in their father's account-book, hereinafter more fully specified.

§ 15. His probable purpose.

It was, as the complainant, from recent information, believes, the purpose of the said Daniel Man, the younger, under color of title in himself derived under these pretended deeds of gift, to convert the respective items of real and personal estate which were the subjects thereof into money, which he proposed to retain and convert to his own use; sell the rest of the real estate of the said Daniel Man, the elder, under the power contained in the said alleged will; and, after having wound up the business of his executorship, and settled formally the accounts thereof, without accounting for the

subject of any one of the said pretended deeds of gift, or of any of the agencies or trusts hereinafter mentioned, or making good any of his defaults hereinafter mentioned, leave the United States, and, under his assumed name of Louis Anson, hereinafter mentioned, or some other fictitious name, reside in a distant part of the world, where his true name and history would be unknown, and his residence not discoverable by those whom he intended to despoil of their inheritance. He lived to accomplish in part his evil designs, as will be hereinafter stated.

§ 16. Its frustration by his death.

Their entire consummation, after having been retarded by unexpected delays in litigations in which the respective claims on Sibbald's estate and Peisch's estate, hereinafter mentioned, were involved, and by other obstacles, was finally frustrated by his own death, which occurred very suddenly, at Philadelphia, on or about the 21st day of February, 1853, a year after the complainant's arrival, as aforesaid, at New York, from California.

§ 17. His relations with certain of the defendants.

In order to prevent future portions of the complainant's will from being unintelligible, it is necessary here to state that the said Daniel Man, the younger, had, for ten years, more or less, as the complainant has recently learned, cohabited with Louisa S. Arnel, otherwise called Louisa S. Anson, a defendant in this case, and mother of the minors Anson, who are also defendants. He, the said Daniel Man, the younger, is reputed to have been the father of these children of the said Louisa, or some of them; but he was never married, so far as the complainant knows or believes. In all, or nearly all, of his relations with her, he bore the said assumed name of Louis Anson. At Philadelphia, where, during their cohabitation, he professedly resided in his father's house, as aforesaid, these relations were, until his father's death, comparatively private; and, at first, had been altogether, or in a great measure, unknown. But at other places, which he from time to time visited with her, where his true name was unknown, or was supposed by them to be unknown, they often assumed openly the pretended relation of husband and wife, and, under the fictitious names of Mr. and Mrs. Louis Anson, were received into the society of many persons, who believed these to be their true names. For some years, their establishment at Philadelphia had, moreover, been maintained expensively by the said Daniel Man, the younger, with funds fraudulently misapplied by him, as hereinafter mentioned. Through causes already set forth, and the advance in years of the said children, and incidental and other causes, the existence of the said cohabitation had, in the latter

years of the life of the said Daniel Man, the elder, been becoming known to many persons in Philadelphia. On the death of the said Daniel Man, the elder, the said Daniel Man, the younger, very soon left, as aforesaid, the house late of the former, in which he had theretofore resided, or professed to reside, and from thenceforth, until his death, resided altogether in the house in Philadelphia which was occupied by the said Louisa and her children.

§ 18. His will and codicils.

The last will of the said Daniel Man, the younger, made on the 1st day of July, in the year 1852, and two codicils thereto, made, respectively, one on the same day, and the other on the 22d day of November, in the same year, were proved before the register of the said county on the 26th day of February, 1853. By the said will he gave what he therein designated as all the estate, real and personal, to which he was entitled under the will of his late father, to the defendants, Samuel W. Paul and John Jordan, Jr., and their heirs, in trust for the use of the said Louisa for life in the manner therein mentioned; and, from and after her death, to such of her children as should be living at a period not exceeding nine months after his own death; and in default of such children, remainder to "his own heirs." To the defendant, Edward S. Anson, therein designated as her eldest son, he gave five thousand dollars, to be paid, at the age of twenty-one years, out of his personal estate. He gave the residue of his estate, real and personal, to the said defendants, Paul and Jordan, to be held in trust until her youngest child should be of legal age, when the same was to be divided among all her children except the said Edward, whom he had already provided for as aforesaid. This was followed by a provision that when certain real estate, hereinafter mentioned, should be sold, certain annuities particularly mentioned in a subsequent part of this bill, should be paid out of the income of the proceeds; the principal, after the deaths of the annuitants, to form a part of his residuary estate. He afterwards gave the defendant, George Ernest Anson, twenty thousand dollars, anything therein contained to the contrary, notwithstanding; and appointed the said defendants, Paul and Jordan, executors. By the first of the said codicils, he gave them power to sell any part or the whole of his real estate. By the second codicil he reduced the said annuities, as will be particularly stated in a subsequent part of this bill. All which, in and by the said last will and codicils, of which as part of this bill, copies are hereto annexed, will, on reference thereto, with other things, more fully appear.

§ 19. Letters testamentary thereof.

Letters testamentary of the said will and codicils were, upon the probate thereof aforesaid, granted by the said register to the said Paul and Jordan, who assumed upon themselves the executorship thereof.

§ 20. Letters testamentary *d. b. n.* of D. Man, Senior.

At about the same time, letters testamentary of the writings theretofore proved, as aforesaid, as the will of the said Daniel Man, the elder, and codicil thereto, were, by the said register, granted to the said defendant, Jordan, as successor to the said Daniel Man, the younger, in that executorship, according to the purport of the said writings. The defendant Jordan thereupon assumed upon himself this executorship likewise.

§ 21. Guardianship of D. M. King.

From the death of the said Daniel Man, the elder, until the death of the said Daniel Man, the younger, the guardianship of the said Daniel Man King had been vacant. On or about the 9th day of March, 1853, the defendant, Robert Hays, was, by the Orphans' Court of Philadelphia County, appointed his guardian, and accepted the said guardianship. He, the said Daniel Man King, had, for the preceding twelve years or thereabouts, been at school, at Bethlehem, in Pennsylvania.

§ 22. Inventory of D. Man, Jr.'s, estate. Property of D. Man, Senior, wrongfully included therein.

In April, 1853, the said executors of the said Daniel Man, the younger, filed with the said register an inventory and appraisement of what they then claimed, and, for aught the complainant knows, still pretend, to have been goods, chattels, and credits of their testator. Of this inventory and appraisement, a true copy is hereto annexed, as part of this bill. Except the first item, therein designated as "one-third of the personal estate of his father, Captain Daniel Man, deceased, $2500," the complainant believes and avers that all the subjects of this inventory were in truth portions of the estate of the said Daniel Man, the elder, and did not, in equity or good conscience, belong to the estate of the said Daniel Man, the younger. The greater number, if not all, of these items, can, as the complainant believes, be shown specifically to belong to the estate of the former, wrongfully acquired and misapplied, as aforesaid. The valuation, according to the said appraisement, was in the whole $\$27{,}886\frac{13}{100}$; but there was no valuation therein of a claim upon Abraham Peisch's estate. From this item, which was returned in the said inventory as a part of the said Daniel Man, the younger's, estate, but which will in the proper place in the bill be shown to have belonged in equity to the said Daniel Man, the elder, $20,000, or thereabouts, more or less, has been since received, or is now receivable, as

will be hereinafter stated. Personal property of the value in the aggregate of $45,000, or more, which will, as the complainant prays, be decreed to belong to the said Daniel Man, the elder's, estate, was thus wrongfully claimed in the said inventory as belonging to the said Daniel Man, the younger's, estate.

§ 23. Complainant informed of D. Man, Jr.'s, death.

Before the end of March, 1853, the complainant received, in England, information of the death of the said Daniel Man, the younger, in three letters, of which, as part of this bill, copies are annexed. One of them, dated Feb, 22, 1853, was from his nephew, the said Daniel Man King; another, of the same date, inclosing the former, from Josiah Randall, Esq., who had been the legal adviser of the said Daniel Man, the younger; and the other, dated Feb. 28, 1853, from the said defendant, John Jordan, Junior, whose temporary absence, therein mentioned, appears to have occasioned Mr. Randall's friendly intervention. A casual and incidental mention, in the said letter of Mr. Jordan, of the place and time of the burial of the complainant's father, gave him his first knowledge that his father was dead. He had written, in entire ignorance thereof, in reply to Mr. Randall's letter, before the receipt of Mr. Jordan's.

§ 24. Their intervening correspondence.

Until February, 1853, the complainant had been in correspondence with the said Daniel Man, the younger, whose letters to him he will produce in evidence. He doubts if his letters to the said Daniel Man, the younger, are in existence, believing that they have been destroyed by him, but avers that the same, if in existence, are in the possession or under the control of the defendants, or some of them, and prays that the same may be produced in evidence. Remittances of money, in small amounts, as mentioned in the said correspondence, the last on the 4th day of February, in the year 1853, had, from time to time, been made to the complainant by the said Daniel Man, the younger. Nothing had occurred to induce a suspicion of their father's death in the mind of the complainant, from whom it had, to the last, been fraudulently concealed by the said Daniel Man, the younger.

§ 25. Complainant returns to Philadelphia.

The complainant, availing himself of a credit given him in the said letters, transmitted to him after his brother's death, by which he was enabled to raise the necessary funds, returned to the United States, and in April, 1853, reached Philadelphia.

§ 26. His subsequent investigations and discoveries.

He then, with imperfect means of information, instituted inquiries, and made investigations, through which he has been enabled to state most of the matters hereinbefore averred, which do not

concern himself alone. As to matters hereinafter averred, which do not particularly concern himself, he has relied, in part, on information derived from the same or similar inquiries and investigations. So far as these averments concern subjects of litigation, he has, through the aid of counsel, obtained his information from the public records, and other sources of information within the range of professional inquiry and investigation. This information has been important and useful to him, because his bill, under some of the particular heads of complaint hereinafter specified, is little else than a narrative of past and pending litigations and their incidents.

§ 27. Information received from defendants Paul and Jordan.

On other subjects, he has received reliable information from the defendants, Paul and Jordan, who have, at his request, permitted him and his counsel to inspect such documents in their possession, or under their control, as he was interested in, and have candidly answered his inquiries on subjects in which he was interested. This, as the complainant is advised, was the moral duty of both of them, wherever inquiry was properly addressed to them or either of them. The relation to the estates of both the said Daniel Man, the elder, and Daniel Man, the younger, in which the defendant Jordan, in particular, stood, as an executor of the will of each of these deceased persons, justified, in the complainant's opinion, an unlimited freedom of application to the said Jordan for all information which he could furnish to throw light upon the question, whether any given items of property belong rightly to the one or the other of the two estates. As far as it has been in the power of the said Jordan, the complainant believes that he has truly, to the best of his ability, answered every question which it was his duty to answer, and truly given all the information which it has been proper for him to give.

§ 28. Conflicting official duties of one of these defendants requiring exercise of court's jurisdiction.

The conflict in the claims of duty, or supposed duty of the said John Jordan, Junior, as an executor, as well of the said Daniel Man, the elder, as of the said Daniel Man, the younger, may, however, in the sequel, as the complainant is advised, be such as it will require an exercise of the jurisdiction of a court of equity to reconcile. The complainant, in view of this probable exigency, invokes therefore the court's jurisdiction in that behalf.

§ 29. Extant and missing books of account, with averment as to destruction or loss of the latter.

The opportunities of the said Jordan and Paul to obtain an accurate knowledge sufficient for the certain determination of all such questions were,

at best, imperfect. The said Daniel Man, the elder, so far as the complainant knows or believes, never kept regular and complete books of account. The complainant does not know or believe that he was capable of keeping them in a formal mode. His only books of account that were to be found after the death of the said Daniel Man, the younger, or that now exist, so far as the complainant has any knowledge or information, were a check-book from September 1846 to October 1851, inclusive, and a book kept from the beginning of the year 1830 to the close of 1851, which, for want of a precisely proper denomination, will here be called his *income-book.* It contained, on one side, entries of his current and occasional expenses, and of a few other payments; and, on the other side, entries of his receipts of the dividends and interest on his permanent investments, and of a few occasional receipts of capital from uncertain or unusual sources; but no entries of either permanent or temporary investments of capital, or of his operations of business. That there was another book or books, or paper or papers, containing accounts, or showing particulars or results of such transactions and investments, is indicated in several entries in the said income-book; and the complainant avers that such other book or books, paper or papers, once existed. He believes that they do not now exist; but that the said Daniel Man, the younger, in order to conceal his accountabilities and liabilities hereinafter mentioned, and other liabilities and accountabilities as yet undiscovered, fraudulently destroyed, put away, removed, suppressed, and concealed books or papers, or both books and papers of the said Daniel Man, the elder, containing accounts or entries, which, if extant, would have disclosed and discovered such liabilities and accountabilities. That the bill under this head may not be deficient in averments adaptable to any other aspect of the case, the complainant avers that the said last mentioned books and papers, if not so destroyed, are lost, or are in the possession or control of the defendants, or of some of them, by whom they should be produced.

§ 30. Mutilation of check-book and income-book, and alterations and erasures of entries therein.

The said check-book was fraudulently mutilated by the said Daniel Man, the younger, as will be hereinafter stated. He also made many fraudulent alterations, falsifications, and erasures of entries in the said income-book. After the complainant had sailed for Europe as aforesaid, subsequently to the death of the said Daniel Man, the elder, or at some other time or times, the said Daniel Man, the younger, fraudulently made these mutilations, alterations, falsifications, and

erasures, and others as yet undiscovered, for the purpose of concealing his accountabilities and liabilities under the several heads hereinafter particularly mentioned, and under other heads as yet undiscovered.

The complainant will here set forth in detail the said falsifications and erasures of entries in the said income-book as far as he has as yet been able to discover the same. In subsequent parts of this bill, these details will respectively be referred to their proper subjects under the several heads of relief specifically prayed.

One of the said entries, made 12th June, 1845, originally "six months interest on J. Ridgway's m'tge 240," in the handwriting of the said Daniel Man, the younger, has been erased with a knife. With a strong light thrown upon it at a proper inclination, it still is, or lately was, decipherable.

Another entry of 24th September, 1845, "Jacob Ridgway interest on 8,000, mortgage 480," originally written on the wrong side of the account in the handwriting of the said Daniel Man, the elder, has been erased with a pen, apparently without any purpose to conceal what was originally written. On the opposite side, an entry made shortly afterwards, wholly erased with a knife, was, as the complainant believes and avers, the same or a similar entry transferred to this side, and afterwards fraudulently erased in order to conceal what had been there written. At the top of the page on this side, an alteration in the column of decimals has also been made. The footing of this page, in the handwriting of the said Daniel Man, the younger, is $490 more than the sum of the figures extant upon it.

The footing of the page closing with 26th September, 1846, in the handwriting of the said Daniel Man, the younger, is $570 more than the sum of the figures extant upon it. The last entry has been erased with a knife. The complainant believes and avers that it was originally an entry of the receipt of $480 interest on the said $8,000. Another entry on the same page, erased with a knife, was originally, as the complainant believes, an entry of the receipt of $90, from some source to the complainant as yet unknown.

Between May 20 and 25, 1847, an entry has been erased with a knife. With a strong light thrown upon it, at a proper inclination, this entry appears to have been in the handwriting of the said Daniel Man the elder, and to have been a dividend on some investment, of which the designation has not been deciphered, or otherwise as yet ascertained.

An entry of 23d Sept. 1847, has been erased with a knife. Throwing a strong light, at a proper inclination, on the paper, the initial words appear to have been Jacob Ridgway. It was,

as the complainant believes, an entry of the receipt of interest on the said $8,000.

Between March 25 and April 3, 1848, an entry, erased with a knife, not as yet deciphered, was, as the complainant believes, a like entry of the receipt of $240, interest on the said $8,000. The footing of the page, in the handwriting of the said Daniel Man the younger, is $342 more than the sum of the figures extant upon it.

An entry of the receipt on 1st July, 1848, of $45, six months' interest on $1,500, Norristown Railroad Loan, has been altered and falsified, by the said Daniel Man the younger, with a pen, and afterwards erased by him with a pen. As falsified, it reads July 13, six months' interest on Ritter's mortgage, 11. On the same page, between the dates of Sept. 12 and 30, an entry has been wholly erased with a knife, and afterwards crossed over with a pen. It was, as the complainant believes, an entry of the receipt of $240, as interest on the said $8,000. The footing of this page, in the handwriting of the said Daniel Man the younger, is $385 more than the sum of the figures extant upon it.

An entry of 2d January, 1849, erased with a knife, is, with the aid of a strong light as aforesaid, decipherable as having been an entry of the receipt of $45, six months' interest on the said Norristown Railroad Loan. On the same page, an entry, in the handwriting of the said Daniel Man, the younger, originally, "Mch. 2, six months' interest on Jos. Purvis' bond and mortgage, due 28th ult. 97.50," has been fraudulently altered in his the said Daniel Man the younger's handwriting, by the change of the amount $97\frac{50}{100}$, really paid by the said Purvis, to $\$67\frac{50}{100}$; difference $30. The difference on this page, as far as discovered, are thus together $75. The footing, in his handwriting, is $175 more than the sum of the entries extant upon it.

The next page exhibits four blank spaces, where as many entries have been erased with a knife, two in April and two in July, 1849. The first of these four entries had been a long one. Its initial words were Jacob Ridgway, as can, or could lately, be seen by the aid of a strong light, as aforesaid. This was doubtless an entry of the receipt of interest on the said $8,000. The second entry has not as yet been in anywise decipherable, or otherwise ascertainable by or on behalf of the complainant. The third, *July* 2, *Wm. Kirk*, *six months' rent* 75; and the fourth, in the line below it, *interest Norristown Railroad Loan* 45, are in part decipherable with the aid of a strong light, as aforesaid. In the next entry below it, an alteration of date has been made in order to mislead; and there is another alteration in the decimal column of dollars. The footing of the

page, in the handwriting of the said Daniel Man, the younger, is of an amount greater than the sum of the figures extant upon it.

Of the next page, the footing is $430 more than the sum of the figures extant upon it. This difference is the result of three falsifications and erasures, viz:—

[The original entries in the handwriting of Daniel Man the elder; the alterations in that of Daniel Man the younger.]

1849, Aug. 1.	Six months' interest on State loan, less 5 p. c. tax			$109 25
	Altered to six months' interest on Ritter's bond			9 25
	Difference . .			$100
" Sept. 3.	Six months' interest on Jos. Purvis's bond and mortgage, due 28th ult. . . .	97	50	
	Altered to six months' interest on Geo. Ritter's bond and mortgage, due 21 inst. (or ult.)	7	50	
	Difference . .			90
" " 23.	An erasure of an entry of the receipt from the executors of the said Ridgway of six months' interest on the said $8,000			240
				$430

On the opposite side of the next page, the two following entries have been erased with a knife:—

1849, Nov. 10.	Six months' interest on mortgage to Saving Fund, ...	90 00
" Dec. 6.	One month's interest on mortgage to Philadelphia Saving Fund, . .	15 00

On the same side of the following page, an entry of 28 December, 1849, of which county tax Spring Garden is still decipherable by the aid of a strong light, as aforesaid, has been erased with a knife. The receipt-book of the said Daniel Man, the elder, of that date, shows that the entry thus erased was, and the complainant avers it to have been, that of a payment of $80, county taxes, fifth ward, Spring Garden.

Three pages of the said Daniel Man, the elder's, check-book, including this date, and including the entry of the check, with which an investment of $\$9{,}913\frac{95}{100}$ in Pennsylvania 5 per cent. stock, hereinafter mentioned, was paid for, have been cut or torn out, and are not now to be had or seen.

The complainant believes and avers that these mutilations

of the said check-book, as well as the said three last-mentioned erasures from the said income-book, were fraudulently made by the said Daniel Man, the younger, in order to suppress and conceal evidence of the said Daniel Man, the elder's, ownership of subjects of a pretended deed of 7th June, 1849, hereinafter mentioned.

Returning to the side of the said income-book, on which the said Daniel Man, the elder's, receipts were entered, the complainant shows the following other erasures and falsifications of entries:—

An entry of 4th January, 1850, originally of the receipt of $45, six months' interest, on the said Norristown Railroad loan, was erased with a knife by the said Daniel Man, the younger, who fraudulently substituted a false entry, still extant, in his own handwriting, upon the said erasure. This false entry is an entry of the pretended receipt of $5 from Rebecca Sherman, on account of rent—difference	$40 00
The next item but one on the same page, fraudulently erased by the said Daniel Man, the younger, with a knife, was an entry of the receipt from the said William Kirk, of six months' rent	75 00
On the same page, under date of Feb. 1, 370\frac{50}{100}$, six months' interest on State loans, less 5 per cent. tax, was fraudulently altered by the said Daniel Man, the younger, by an erasure with a knife, and writing over it with a pen, to 109\frac{50}{100}$—difference . . .	261 00
On the same page, under date of March 11, an entry has been erased with a pen. On the erasure, in the handwriting of the said Daniel Man, the younger, is a false entry of $8, as received from Geo. Ritter, a year's interest on his bond due 28th ult. The original entry had been that of the receipt of $88 on that day, from the said Joseph Purvis—difference	80 00
The footing of this page, in the handwriting of the said Daniel Man, the elder, exceeds the sum of the items now extant on it in the precise amount of the aggregate of these four differences and omissions—viz: .	$456 00

The last two items on the next page, erased with a knife, by the aid of a strong light as aforesaid, are still, or were lately, decipherable; one of them as having been $45, the interest of July, 1850, on the said Norristown Railroad loan; and the other as having been $75, the said Kirk's half-yearly rent; together, $120. The footing of this page, in the handwriting of the said Daniel Man, the younger, is $220 more than the sum of the figures upon it.

The footing of the next page, in his handwriting, is $230 more than the sum of the figures upon it. This results from his having erased with a knife an original entry of the receipt on 23d September, 1850, of $240 from the estate of the said Ridgway, interest on the said $8,000, and having fraudulently written on the erasure a false entry of the receipt of $10, from "Solomon Brown, on account of rent due 28th July;" which last-mentioned substituted and counterfeit entry in his the said Daniel Man, the younger's, handwriting, is now there extant.

An entry of 3d January, 1851, erased with a knife, can, by the aid of a strong light as aforesaid, be deciphered as having been originally an entry of the receipt of $75, half a year's rent, from the said William Kirk.

On the same page, an entry of Feb. 1, 1851, six months' interest on Pennsylvania State loan, was originally 370\frac{50}{100}$, and has been fraudulently altered in the handwriting of the said Daniel Man, the younger, to 109\frac{50}{100}$.

On the same page, an entry of 24th March, 1851, erased with a knife, can, with the aid of a strong light as aforesaid, be deciphered as having been "6 mos'. int. on J. Ridgway's * * * * 240," in the said Daniel Man, the younger's, handwriting. The footing of this page, in his handwriting, is $436 more than the sum of the figures now upon it.

The footing of the next page, in his handwriting, is $400 more than the sum of the figures at present upon it. Of this difference, the three following items account for $360.

1851, July 1. Erasure with a knife of an entry of the receipt of $75, half a year's rent, from the said William Kirk.

1851, July 7. Like erasure of an entry of the receipt of $45, six months' interest on the said Norristown Railroad loan.

1851, October. Like erasure of the receipt of $240 from the estate of the said Ridgway, interest on the said $8,000.

All which will, among other matters, appear, on reference to the said check-book, and income book respectively; both of which the complainant shows to be in the possession or control of the defendants, or of some one or more of them; and prays may be produced.

In consequence of all which discovered and undiscovered suppressions, concealments, destructions and spoliations of evidence, mutilations, alterations, erasures, and falsifications, and of the complainant's continued absence and mode of life aforesaid, and of many other causes hereinbefore and hereinafter stated, and unavoidable causes not herein mentioned, he has had imperfect opportuni-

§ 31. Complainant's ignorance of matters stated below in alternative modes; with prayer of relief as the truth may hereafter appear.

ties of obtaining an adequate knowledge, in outline or detail, of many of the facts on which the prayer of his bill is founded. He is obliged to rely, in part, upon the discovery hereinafter prayed, and in part upon proofs and evidence to be hereafter adduced, of whose effects he is as yet partially ignorant. He therefore prays that the frequency of alternative averments, for these reasons unavoidably contained in his bill, may not be referred to any other cause than that of an imperative necessity; and that where such averments are contained in the parts of his bill in which material occurrences, on which his prayer for relief is hereinafter founded, are set forth, his bill may stand, and be deemed and taken as adapted to such truthful aspect as the case, upon the discovery and proofs, may present on the hearing.

As the result of his recent inquiries and investigations aforesaid, he will hereinafter give a statement of occurrences, of the most of which he was, on his return from Europe in 1853, quite ignorant, and of all of which, as affecting his rights or interests, he was altogether ignorant.

§ 32. Characteristic traits of D. Man, Sr., in his old age.

He premises that the said Daniel Man, the elder, was, throughout his life, a rigid economist, and greatly disapproved of extravagance in living on the part of any member of his family. In his latter years, moreover, he became, as the complainant has recently been informed and avers, religiously disposed, entertaining scruples which would have rendered him intolerant of the said unlawful connection of the said Daniel Man, the younger, with the said Louisa. The complainant believes that the said Daniel Man, the elder, if he had known of this connection, and had known that the said Daniel Man, the younger, was maintaining, as aforesaid, an expensive establishment, in order to support the said Louisa and her children, would not have bestowed favors on him, and certainly would not have reposed any trust or confidence in him. The complainant believes and avers that the said cohabitation was entirely concealed from the said Daniel Man, the elder, who knew nothing of it. But, from recent information, the complainant is induced to believe that, as the said cohabitation became more public, as aforesaid, an apprehension by the said Daniel Man, the younger, that his said father might possibly receive information of it, and an apprehension of the possible consequences of the displeasure of his said father, which would be attendant upon such discovery, were, in part, the cause and motive of some of the wrongful and fraudulent acts of the said Daniel Man, the younger, hereinafter mentioned.

The complainant, who last saw his said father in 1840, as aforesaid, knows that he had accumulated a large fortune in real and personal property, which he had ordinarily managed with skill, thrift, and prudence. Though then seventy-eight years of age, he was in the possession of bodily and mental faculties still adequate for the transaction of his worldly business, but was gradually becoming more precipitate in his impulses, and less prudent in his conduct, than at former periods of his life. He had a kind heart, whose affections were not unfrequently concealed under an external austerity of deportment, which, with strangers, was habitual, and, in his domestic circle, often manifested itself. From causes mentioned below, this trait assumed, in the latter part of his life, the semblance of a sterner coldness and reserve, which were not parts of his true nature.

§ 33. His monomaniac abhorrence of litigation and its incidents.

In the prime and maturity of his life, he had been punctiliously strict and exact in requiring from, and enforcing against others, an observance of every just right, and an acknowledgment of every fair claim on which he conceived himself legally entitled to insist. In this particular, the first change in his character and mode of life of which the complainant has been informed, manifested itself as he grew older. For the last few years of his life, he was under the continual or occasional influence of a morbidly sensitive abhorrence of litigation and its incidents, amounting to a species of monomania. This morbid aversion extended itself to everything practically connected with judicial proceedings, or with legal controversy, and grew upon him, with his advance in years, until he became unwilling to assert the simplest demands, or enforce the plainest and most ordinary remedies, by suit or action; preferring to part with his undisputed property at an inordinate sacrifice, or place it out of his immediate possession and control, to vindicating his undeniable rights against even mere wrongdoers, who, without color or pretence of title of any sort, invaded them or trespassed on them.

§ 34. Pecuniary losses and vexatious litigations the causes of this state of his mind.

If due allowance be made for the discontent, petulance, and irascibility ordinarily inseparable from a very advanced age, the causes of his morbid state of mind upon this subject may be referred in part to certain large pecuniary losses which he sustained at this late period of his life, and certain painful and vexatious attendant and consequent legal proceedings, as protracted as they were multiform.

These pecuniary losses, by the insolvencies of Thomas W.

Dyott and of Matthew C. Ralston, and other debtors, amounted to between $70,000 and $100,000, or more, incurred within a short space of time. He had formerly, with apparent equanimity, borne other pecuniary losses of equal or greater magnitude, including those incurred as a private underwriter, and otherwise, through spoliations by the Government of France of property on the seas, and those incurred by the respective failures and insolvencies of Abraham Peisch and John B. Foussat, hereinafter named (the latter of whom had once been his partner in trade), and numerous other debtors. This former equanimity, real or apparent, under such losses, was not thus maintained in his latter days. In his old age, any such occurrences rendered him petulant and melancholy by turns. In his desire to conceal this effect of his losses on his mind and feelings, he shrank from observation and association, and became secluded and moody, as well as discontented.

The legal proceedings above referred to, as having in his old age probably contributed to the production of this morbid mental condition, were more particularly, though not exclusively, those attendant and consequent upon the said insolvency of Thomas W. Dyott, and those attendant upon the assertion, by the said Daniel Man, the elder, of his interest, acquired from the said Ralston, in a claim upon the United States, prosecuted on behalf of one Charles F. Sibbald. The said Daniel Man, the elder, in the course of the former of these proceedings, was continually harassed, annoyed, and mortified by repeated attempts of persons to whom he attributed sinister motives and extortionate purposes, to involve him in pecuniary losses, and to implicate his character for integrity and his moral standing as a man of business, which, during his long life, in all his extensive affairs, had never been impugned. The effect of these assaults upon his character was to produce a feeling of misanthropy, distressingly blended with his increasing morbid sensibilities aforesaid. His disappointment in a confidence which, through sincere personal friendship, he had reposed in the said Dyott, moreover, wounded his self-love, and preyed upon his feelings, until he became keenly susceptible of impressions to which he had formerly been comparatively insensible.

The histories of the several litigations aforesaid, consequent, respectively, on the said Dyott's insolvency, and on the prosecution of the said Sibbald's claim upon the United States, belong to a future part of this bill, where an outline will be given, under the respective proper heads, of occurrences which, in the case of an octogenarian, were quite adequate causes of a monomaniac abhorrence of litigation generally, and its incidents.

§ 35. His consequent loss of self-reliance, and his aversion to business.

The said Daniel Man, the elder, before such influences became thus predominant, had never, or very seldom, confided his views in matters of business to others, or relied upon their counsel or assistance, except under his own particular direction and control. The self-reliance for which he had thus been remarkable first forsook him, as aforesaid, in legal matters, from an accumulation of causes, of some of which an outline will be given, as has been stated, in a subsequent part of this bill. He afterwards became almost as averse to the transaction, in person, of business of several other kinds, and, finally, equally averse to the direct performance of any kind of worldly business, except only the simple receipt and perhaps preservation of money.

§ 36. Gradually progressive effects of these morbid mental influences.

The progress of these disheartening and depressing influences upon his mind was gradual. At first, their effect was not perceptible to others. When first perceptible, it manifested itself in a mental state of irritation, rather than of depression, souring his feelings in such a manner as to render his external deportment more stern and inexorable than it had formerly been. The complainant, in 1840, when he last saw him, was misled by this change in his outward bearing, and was thus prepared to receive the more readily the impression of his father's permanent alienation of feeling from him, which the said Daniel Man, the younger, afterwards strove to produce and strengthen, as aforesaid, on his mind. But, by degrees, the spirit of the old man sank within him, and he yielded to the said influences—resisting them less and less from year to year, until they predominated altogether. This effect, which was, to some extent, developed in the year 1843, or earlier, assumed in subsequent years the form and character of permanent mental disease.

§ 37. Decay of his organs of sight and hearing.

The primary cause of his morbid reluctance to transact business was not so much a consciousness of the decline of his mental faculties as an inability to command the ready performance of their functions under a combined pressure of difficulties and embarrassments resulting from a simultaneous decay of his organs of sight and hearing. He had been of a well-developed physical organization, and always observant of those habits of temperance which were the best adapted to the maintenance of the strength and health of his originally robust bodily frame. The soundness of this organization of body was, therefore, in other respects, in a great degree retained after his organs of

hearing and sight had ceased to perform their normal functions, and even later, when they had almost ceased to perform any functions whatever. The progress of the decay of these organs, particularly that of sight, was very gradual.

In the spring of 1843, he was too deaf to hear anything whatever that was said in an ordinary tone, and could not, without almost insuperable difficulty, be made to understand what was uttered at a very high pitch of the voice. He could not comprehend what was said to him, or maintain his part in any ordinary conversation. His eyesight was not then so far gone that he could not read what was printed in large type, or plainly written in large characters. He was still able to write a little, and used to write in larger letters and figures than formerly, in order that he might be the better able to read what he had himself written. But his eyesight was even then impaired in such a degree that, notwithstanding his deafness, he preferred endeavoring to hear an ordinary writing, as read by another person, in a very loud voice, near the orifice of his ear, to attempting the vain task of reading it himself. His deafness afterwards increased to such an extent as to render this mode of auricular communication with him almost, if not altogether, impracticable. His eyesight, in the mean time, was failing still more, until he afterwards became almost blind, and, for ordinary practical purposes, quite blind; while he was nearly or quite as deaf, and perhaps more deaf than blind. He retained the practice of writing occasionally, and, by the force of habit, could write with tolerable fairness after his vision was impaired in such a degree that he could not read his own writing. When it was thus in such a degree impaired that he could not, with his glasses, have read what was fairly engrossed by another person, or written by himself in letters a quarter of an inch in height, he was able to write occasionally, not illegibly, in a much smaller hand. He continued thus to make occasional entries in the said income-book until within three months of his death, though for two or three years he had been entirely unable to read his own writing, or that of others. In the fall of 1850, the only method that could be devised for conveying to his mind an impression of the contents of the said writing, purporting to be his will, was that it should be engrossed in characters like those used in printing, of the height of half an inch each letter. It was engrossed, and may still be seen in the said register's office, engrossed in such characters. Whether the said Daniel Man, the elder, was able to read it when thus engrossed, the complainant does not know. He had previously been unable to read it when fairly and plainly engrossed in letters a quarter of an inch in height, in a round and plain hand, by a person with whose writing

he had been familiar for a quarter of a century. The complainant believes and avers that this had been the condition of his visual faculties for several years—ever since the year 1847, or earlier.

§ 38. His consequent fears of being overreached, and endeavors to conceal these infirmities.

The said Daniel Man, the elder, for many years before his death, labored constantly under an anxious and painful apprehension that in the ordinary as well as more complicated transactions of his business, persons, observant of the combination of blindness with deafness under which he suffered, would take advantage of it, and overreach and deceive him. He therefore attempted to conceal the existence of these infirmities as far as was practicable; and, in order to do so the more effectually, adopted the habit of transferring or delegating the performance of his worldly business to the said Daniel Man, the younger. This was done at first as a measure of self-protection in his more complex affairs, particularly those connected with litigation; and afterwards became a habit which he pursued as to all his business.

§ 39. His ultimate general loss of self-reliance.

From having formerly been one of the most self-reliant of men, he was now become one of the most dependent and inefficient. This, as long as he retained even a partial consciousness of it, was a constant source of mortification and sore annoyance to him.

§ 40. D. Man, Jr.'s, opportunities from association of exercising influence over D. Man, Senior, and undue advantage fraudulently taken of such opportunities.

After other persons were unable to make the said Daniel Man, the elder, comprehend any but the simplest things, and rarely able to make him understand even these, the said Daniel Man, the younger, from advantages afforded by continual association, possessed and retained the faculty of interchanging communications with him, receiving impressions from him, and making on his mind such new impressions as he, the said Daniel Man, the younger, was from time to time desirous to produce. He was a vigilant observer of the morbid peculiarities, prejudices, and other mental weaknesses of his aged parent; and, as occasion from time to time presented itself, endeavored wrongfully to make them available in aid of his fraudulent purpose to deprive the complainant of his future patrimony, and the said Daniel Man King of his maternal birthright. For the promotion of the said selfish and fraudulent purpose, he took, as his said father grew older, every undue advantage, and exerted every improper influence which his enfeebled state of mind and body, and increasing reluctance to attend to worldly business, and more particularly his increasing abhorrence of litigation, afforded opportunities to take or exert.

§ 41. D. Man, Senior's, reliance on D. Man, Jr., as protector of interests of complainant and D. Man King; and D. Man, Jr.'s, pretended assumption of this relation, and his fraudulent purpose therein.

The said Daniel Man, the elder, during the latter years of his life, before and after the decay of his mental faculties, relied on the said Daniel Man, the younger, to perform the office of a protector to the complainant, watch over him in his wanderings, and relieve his necessities if he should want such relief. The said Daniel Man, the younger, pretended to his father to assume on himself this office, and the performance of its functions; while he was in secret fraudulently meditating and contriving to frustrate the complainant's prospects, and injure his interests, in the manner hereinbefore and hereinafter mentioned.

During the orphanage of the said Daniel Man King, moreover, the said Daniel Man, as his guardian, relied particularly on the said Daniel Man, the younger, to protect and take care of his said ward. The complainant is informed, and believes that the present guardian, above named, of the said Daniel Man King, is about to institute, in the name and on behalf of his ward, proceedings to obtain redress for the acts of imposition, breach of confidence, and undue influence practised by the said Daniel Man, the younger, from which the said Daniel Man King has been a fellow-sufferer with the complainant. He, therefore, does not here present the same distinctively to the consideration of the court.

§ 42. D. Man, Jun'r, capable and experienced in business, conversant with legal principles and forms, and a skilful penman.

The said Daniel Man, the younger, was an experienced and quite capable and ready man of business. After he had attained the age of about twenty-two years, he commenced the study of the law, which he prosecuted for about two years in the office, and under the direction of Charles Wheeler, Esquire, of the Philadelphia bar, then, and for several years before and afterwards, the said Daniel Man, the elder's, professional friend and adviser, and counsel as to legal business of all kinds in and out of court. The said Daniel Man, the younger, was never admitted to practice; but acquired, and afterwards retained, some knowledge of legal principles, and a competent knowledge of legal forms. He wrote a fair and fine engrossing hand.

§ 43. Papers engrossed by him in small characters illegible by D. Man, Senior.

All the papers hereinafter mentioned as engrossed by him and subscribed by the said Daniel Man, the elder, were finely written, in letters too small to have been legible, by the said Daniel Man, the elder, when superannuated and of impaired vision as aforesaid.

§ 44. D. Man, Jr., skilful accountant.

The said Daniel Man, the younger, was moreover an accountant of competent skill. After he had relinquished his plan of pursuing the legal, he adopted the mercantile profession; made voyages as supercargo, and was, to some further extent, engaged in trade. But, from dislike of it, and want of success in it, he relinquished it, having acquired no property or funds, or retained none which had been acquired in any commercial business in which he was ever engaged, either in his own behalf, or as agent for others.

§ 45. His dependence on D. Man, Sen., for means of support.

During all the time hereinafter mentioned, he was, for the means of living, dependent altogether upon his father's estate, and the funds hereinafter specified.

§ 46. His fiduciary relations with D. Man, Sen., under letters of attorney of 1847 and 1848, and previously from 1842, with incidental averments.

On or about the seventh day of April, in the year 1847, the said Daniel Man, the elder, then eighty-five years of age, subscribed his name opposite to the seal of the writing, purporting to be a letter of attorney with power of substitution of that date, of which, as part of this bill, a true copy is hereto annexed. The original of this letter of attorney, or writing purporting so to be, which the complainant has lately seen, and which he avers to be in the possession of the defendants, or one of them, and prays may be produced in evidence and exhibited on the hearing, is partly printed and partly written. The printed part, with blank spaces for names, dates, and pronouns, and a larger blank space for the insertion of other matter if desired, was an ordinary form of a power to collect or recover debts or personal property, and execute acquittances and discharges, &c. The written parts, finely engrossed in small fine letters, were wholly in the handwriting of the said Daniel Man, the younger. In the said larger blank space, he had written and inserted an authority to lease, sell, and dispose of the constituent's real estate in Pennsylvania, New Jersey, and New York, execute contracts, conveyances, deeds, or assurances in absolute fee simple or otherwise, and receive all bonds, mortgages, or obligations for the purchase-money or the rents aforesaid, and to receive payments therefor and thereon. In this form, the said letter of attorney, or writing purporting so to be, was, as the complainant believes, signed, sealed, and acknowledged before an alderman by the said Daniel Man, the elder.

On or about the 8th day of April, in the year 1848, the said Daniel Man, the younger, with his own hand, prepared and engrossed, in like letters, a more formal writing of that date, of

which, as part of this bill a true copy is hereto annexed, purporting to be a letter of attorney with power of substitution, which, on or about that day, was subscribed by the said Daniel Man, the elder, then eighty-six years of age, with his signature opposite to the seal thereof, and acknowledged before an alderman of the said city. By this writing, according to its purport, all acts theretofore done under the said former writing, purporting as aforesaid to be a letter of attorney, were confirmed; and the said Daniel Man, the younger, was authorized thereafter for the said Daniel Man, the elder, and in his name, to collect and receive moneys, rents, dues, and demands, &c., draw and sign checks on banks, sell and transfer bonds, mortgages, judgments, stocks, &c., and all other personal estate, and collect and receive the interest and dividends let on ground-rent, lease, mortgage, sell, and absolutely dispose of real estate, and execute contracts, deeds, or assurances in absolute fee-simple, or otherwise release and extinguish ground-rents, settle, compromise, and adjust disputes and claims in relation to real estate, or to personal claims or liabilities, enter and acknowledge satisfaction of mortgages, &c., institute, prosecute, and defend suits, invest moneys in real estate, bonds, mortgages, stocks, and loans of any and every kind, or upon securities of any other kind, and make any disbursements, by way of gift or otherwise, for the support or benefit of the said Daniel Man, the elder, or any of his family; reciting that it was impossible for him to foresee every contingency that might occur, and declaring that it was his meaning and intention thereby to constitute his said attorney his general agent, with the most ample powers at discretion to manage all his property and affairs, and all acts and deeds and devices in law in relation thereto, to do, execute, and perform as largely, amply, and beneficially as he himself might or could do, if personally present, or as if the matter required more special authority than was thereby given.

Each of the letters of attorney, above mentioned, or writings purporting so to be, was recorded shortly after its date; the former on the 21st of April, 1847, the latter on the 22d of April, 1848. How far the same are, or either of them is, in law or equity, to be deemed and taken to be his deeds or deed, and whether the same, or either of them, are or is, to be so deemed or taken at all, are questions for the court's decision, upon the discovery hereinafter prayed and evidence to be adduced. The complainant prays that his bill, under this head, may stand and be adapted to such truthful aspect as the case may present at the hearing.

How far the said writings, purporting to be letters of attorney, were obtained by the said Daniel Man, the younger, by undue

influence, improper procurement, or abuse of confidence, in aid of his fraudulent and injurious purposes aforesaid, the complainant is not at this time aware; but he believes and avers that they were so obtained. That they were severally and respectively fraudulently used and employed by the said Daniel Man, the younger, for the promotion of his said wrongful purposes, and the facilitation of their execution, the complainant is quite certain; and unqualifiedly avers.

From and after the date of the said writings purporting to be letters of attorney, and particularly from the date of the last of them, until the death of the said Daniel Man, the elder, the said Daniel Man, the younger, assumed and exercised a general agency, care, and superintendence of the property, real and personal, moneys, effects, and business of the said Daniel Man, the elder; occupying towards him such confidential and fiduciary relations as ought to have precluded him, the said Daniel Man, the younger, from taking undue advantage of him or deriving a benefit to his prejudice or disadvantage in the course of their transactions. The said Daniel Man, the elder, as the complainant is moreover advised, superannuated as he was, and enfeebled in body and mind, required a protector of his interests in any person occupying a fiduciary relation towards him. His condition, as the complainant respectfully submits, was peculiarly such as to call for the protection of a Court of Equity, if he was otherwise without protection, against undue influence or breach of confidence, according to the respective definitions thereof in such a court.

During several years before the date of the first of the said writings, purporting to be letters of attorney, beginning, as the complainant believes, in the latter part of the year 1842, the said Daniel Man, the younger, had, to some extent, stood in a fiduciary relation towards the said Daniel Man, the elder; acting as his agent in keeping his accounts, or some of them, receiving his moneys, or some of them, and otherwise assisting him in his business, and relieving him in the care and management of his estate, or lightening the burdens of its ownership.

§ 47. His particular agency in litigations.

As to litigations, pending or anticipated, and their incidents, the said Daniel Man, the younger, was, moreover, from the commencement of the said Daniel Man, the elder's, aversion to them aforesaid, his agent for their prosecution and defence; and, in general, his organ of communication, with others on such subjects. This was the case, in a great measure, if not altogether, from and after the latter part of the year 1842, and, for aught that the complainant knows, from an earlier period. The com-

plainant is informed and believes, in fact, and so avers, and he is advised in law, and respectfully submits that the fiduciary relations which subsisted between the said Daniel Man, the elder, and Daniel Man, the younger, were, at all times, during the last nine or ten years of the life of the former, such as to call for the protection and relief aforesaid of a Court of Equity as to transactions of the character hereinafter mentioned, occurring before the respective dates of the said letters of attorney, not less than as to those occurring after their date.

§ 48. How far he kept his father's accounts, drew checks in his name, and misapplied proceeds.

From the latter part of the year 1842 to the beginning of 1852, the said income-book of the said Daniel Man, the elder, was kept principally by the said Daniel Man, the younger. All the calculations, and most of the entries therein, were in his handwriting. Those entries made in and after 1843, which are in the handwriting of the said Daniel Man, the elder, were, as the complainant believes, only such as were made upon the receipt or payment of moneys by him, when the said Daniel Man, the younger, was not personally present.

The said check-book, so far as preserved, was kept almost entirely by the said Daniel Man, the younger, who, as the complainant believes, drew and signed for the said Daniel Man, the elder, all the checks which were drawn in his name after the date of the said letter of attorney, authorizing such drawing and signing of checks on banks, if not from an earlier date. During the last few years of the life of the said Daniel Man, the elder, his moneys were, through an abuse of this authority, from time to time, and very frequently fraudulently, drawn out of bank upon such checks by the said Daniel Man, the younger, and by him fraudulently deposited in bank to his own credit, and otherwise converted to his own use, or misapplied, without the knowledge of the said Daniel Man, the elder.

§ 49. D. Man, Jr.'s, estate, chargeable in account with liabilities resulting from his frauds hereafter detected in the progress of the cause, not particularly specified in this bill, but embraced in its general allegations.

From the partial mutilation of the said check-book, the destruction or suppression of prior check-books, the numerous falsifications and erasures of entries in the said income-book, and the destruction, suppression, or absence of all books, papers or documents relating to the receipts or investments of capital or principal funds of the said Daniel Man, the elder, the complainant has not been able to ascertain, except partially, the sums of money in which the said Daniel Man, the younger, was, at the death of the said Daniel Man, the elder, accountable to him and his estate, under the said agency, or independently thereof.

The specification hereinafter contained of amounts of principal or capital, for which the said Daniel Man, the younger, or his estate, was and is accountable to the said Daniel Man the elder's estate, will not, as the complainant prays, be received as a statement of all the amounts of capital or principal for which the said Daniel Man, the younger, or his estate, was or is accountable, and with which his estate is chargeable to that of the said Daniel Man, the elder. The complainant believes and avers that the said Daniel Man, the younger, was liable for, and that his estate is chargeable in the said account with, divers amounts of capital and income as yet undiscovered and unknown, which, through the discovery sought in his bill, or through the proofs in the cause, or through the taking of the accounts before the Master or otherwise, will be ascertainable or computable during the progress of this cause; and he prays, as to such items, the same benefit, as if the results of such discovery, proofs, or accounting, etc., had been embodied as averments in this bill, and herein particularly set forth.

§ 50. Claims against D. Man, Jr.'s estate of $10,414 and 12 cts. received by him in January, 1848, from J. Ridgway's estate, and of items of interest previously received and misapplied, with averments as to securities derived specifically from this fund; and prefatory history of litigations attendant and consequent upon T. W. Dyott's insolvency, in which the transaction originated; with incidental averments, &c.

A particular fraud and breach of confidence which the complainant, on his present knowledge and information, without awaiting the discovery or account hereinafter prayed, or proofs to be hereafter taken, is able here to charge upon the said Daniel Man, the younger, was his conversion to his own use of a large amount of money received by him for the use of the said Daniel Man, the elder, from the executors of Jacob Ridgway, deceased, in or about the month of January, in the year 1848; for which he never accounted to the said Daniel Man, the elder, in his lifetime, or to his estate after his death; but, on the contrary, fraudulently suppressed the fact of its receipt, and concealed it from him in his lifetime, and from his representatives after his death; and, through the false entries and other deceptive artifices hereinafter mentioned, pretended that it remained unpaid. The fund which was the subject of this fraud of the said Daniel Man, the younger, arose out of transactions consequent upon the said Thomas W. Dyott's insolvency. That the causes and mode of its perpetration may be the better understood, and for other reasons hereinbefore stated, a narrative is here given of the litigations attendant and consequent upon this insolvency.

The said Dyott, a manufacturer, trader, and banker, transact-

ing business in the district of Kensington, and also in the city of Philadelphia, had failed in the said business in the year 1837. In the following year, after an attempted resumption of his payments, he became hopelessly insolvent. The creditors to whom he was indebted in the greatest amounts were the said Daniel Man, the elder, and Jacob Ridgway. The latter, not less than the former, was an experienced man of business, who had enjoyed an, at least, equal reputation for prudence and sagacity. Each of them had been a creditor of the said Dyott, when he had on a former occasion failed in business, and had afterwards been paid in full the amount of his indebtment to them respectively. This had probably been the cause, in part, of the confidence which each of them entertained in the said Dyott's integrity and solvency in the business in which he was afterwards engaged until his final failure aforesaid. Each of them held mortgages of the said Dyott's real estate at the time of his failure. Each of them held, also, promissory notes of the said Dyott, issued *by him as a banker*, as aforesaid. The said Ridgway held such notes to an amount of between $60,000 and $70,000; and the said Man held them to an amount exceeding $30,000 or $40,000; besides the said mortgage debts and other investments secured on real estate of the said Dyott. For the said amounts of his bank-notes they respectively had no specific security; but they severally claimed each his proportional interest, in the security of a judgment which the said Dyott had formerly confessed for the protection of all the noteholders and depositors of his bank. These notes had been received by the said Ridgway and Man, respectively, for advances made by them to sustain the credit of the said Dyott as a banker. The said Man had, in making these advances, been influenced not more by his confidence aforesaid than by motives of personal friendship for the said Dyott. All of these advances had been applied immediately in the said Dyott's banking business, in payment of current demands of noteholders and depositors. It was judicially declared by the Supreme Court of Pennsylvania, after all the dealings and transactions of the said Ridgway and Man respectively with the said Dyott had been legally investigated, that there was nothing in the evidence which impugned, in the least, the entire good faith of either of them, the said Ridgway or Man. But, in delivering this opinion, the said court observed that there seemed to have been, and the complainant avers that there was, "a degree of infatuation in both these sagacious men, for which it was somewhat difficult to account." This opinion of that court was delivered in a proceeding, hereinafter mentioned, in the year 1842. For several years before that time, and likewise afterwards, other creditors

of the said Dyott endeavored, in various modes, to implicate both the said Ridgway and Man, but more particularly the said Ridgway, as having been participant in, or privy to, frauds upon creditors of the said Dyott, who was charged with having been the more direct perpetrator of these frauds.

At the term of December, 1838, of the Court of Common Pleas of Philadelphia County, the said Dyott presented his petition for a discharge as an insolvent debtor. Upon objections to his discharge by many of his creditors, there was, in February and March, 1839, a hearing, upon his application, which occupied nearly three weeks. The said Ridgway and Man were in attendance; and each was examined, at this hearing, as a witness. The result of this proceeding was the committal of the said Dyott for trial in the Court of Criminal Sessions for the city and county of Philadelphia, on the charge hereinafter mentioned. In the latter court, at March term, 1839, a bill of indictment was found, charging him with various acts of fraudulent insolvency. After a trial in that court, which occupied the whole month of May, 1839, he was, on or about the 1st day of June, in that year, found guilty of the said charge. The said Ridgway and Man were again each examined as witnesses on this trial. The said Man was in attendance, as a witness, many days. He was greatly shocked and afflicted at the result, and had been grievously pained, mortified, and irritated by many circumstances which occurred upon the trial, and which made a lasting impression on his feelings.

After proceedings in the case of the said Dyott, which it is not necessary to mention, he was sentenced in the latter part of August, 1839. In the mean time, criminal proceedings had been instituted against the said Ridgway, whom the mayor of the said city bound over to answer a charge of conspiring with the said Dyott to defraud. The said Ridgway, with a view to a proceeding by habeas corpus, refused to give bail; and was committed to custody. He thereupon sued out a writ of habeas corpus, returnable in the Court of Common Pleas of the said county, or before one of the judges of that court. In the early part of August, 1839, he was discharged from the said custody, on the ground that, whether civilly liable or not to the creditors of the said Dyott, a point on which the court avoided expressing an opinion, no sufficient cause to hold him to bail to answer a criminal charge had been shown. The court, in giving this opinion, observed that if the counsel for the commonwealth thought that they could present a different case at a subsequent day, the decision did not preclude them from sending a bill to the grand jury whenever they might see proper so to do. For several years afterwards, repeated, though unsuccessful endea-

vors were, from time to time, made through the procurement of creditors of the said Dyott, to renew this prosecution, by obtaining the finding of a bill of indictment against the said Ridgway. The said Daniel Man, the elder, was kept informed of these proceedings, which greatly disquieted him.

In different courts of the city and county of Philadelphia, numerous actions were likewise instituted against the said Ridgway, in order to render him civilly liable for debts of the said Dyott, or to implicate him in responsibility for alleged frauds with reference to the business of the said Dyott. The said Daniel Man, the elder, who was in like manner informed of these proceedings, was further disquieted and annoyed, if not alarmed, at their occurrence.

In a proceeding of another kind, in the District Court for the city and county of Philadelphia, the subject of litigation was a fund arising from a sheriff's sale under an execution against the said Dyott. This fund was distributable among the note-holders and depositors of the said bank, under the judgment which had been confessed, as aforesaid, by the said Dyott for their security. The other note-holders and the depositors denied that either the said Ridgway or the said Man was entitled, as a note-holder, to participate in the benefit of this security in right of the notes of the said bank, which were held by them respectively. The said District Court confirming, after argument, the report of an auditor before whom there had been a protracted investigation, decided that neither the said Ridgway nor the said Man was entitled to participate in the distribution. They severally appealed from this decision to the Supreme Court for the Eastern District of Pennsylvania. By this court, from whose decision made in the year 1842 a quotation has been hereinbefore given, the judgment of the said District Court was reversed, and the said Ridgway and Man were admitted each to a ratable proportion of the fund thus distributable; from which a small dividend was thereupon received.

J. B. and C. W. Dyott, and J. W. and M. B. Dyott respectively, were liable to the said Ridgway and Man respectively, in large amounts on debts primarily contracted by the said Thomas W. Dyott. They were, in this manner, liable—but in what respective proportions liable the complainant does not know—in an aggregate amount of about $46,000 to the said Man. The said J. B. and C. W. Dyott had made an assignment of their estate, for the benefit of creditors releasing them within a limited period. The said Ridgway and Man respectively released them within this period; and thus became entitled each to a dividend on the amount of his debt, payable out of such funds as might be distributable under this assignment. But

the funds in the hands of the assignees were the proceeds of property to which the assignors derived, or claimed to derive, title under the said Thomas W. Dyott. His other creditors, or some of them, claimed these funds; alleging that the property of which they were thus the proceeds, had never been parted with by him, or had never been so parted with as to vest a transferable interest in the said assignors. Hereupon, a new controversy arose between some of the creditors of the said Thomas W. Dyott and the said Ridgway and Man, respectively. This controversy, after another long litigation, was partially decided in the Supreme Court in the year 1842, at about the time of the last above mentioned decision of that court. In this proceeding, the said Ridgway and Man were appellees. The Supreme Court, affirming the decree of the Court of Common Pleas of Philadelphia County, which had confirmed the report of auditors, held that the said Thomas W. Dyott, never having made any transfer of the property in question in favor of his creditors, and not having been discharged as an insolvent debtor, and not claiming himself, either on his own behalf or on that of his creditors, these creditors could not, in that proceeding, set up a title to the fund.

In the course of the last-mentioned litigations, many occurrences directly painful to the feelings, and wounding the pride of the said Daniel Man, the elder, left most unpleasant impressions on his mind. If they were in part temporarily effaced or weakened in the spring of 1842 by these favorable decisions of the said Supreme Court, they were not long afterwards renewed and deepened by the unfavorable result of the second of the two ejectments at the suit of Francis M. Drexel, hereinafter mentioned, and other occurrences of a controversy with the said Drexel, in which the said Daniel Man, the elder, was the ostensible party and object of attack, invective, and hostile feeling, while the said Ridgway was in secret the party interested.

In order to explain the manner in which this occurred, the complainant shows that a lot of ground, the property of the said Dyott, on which forty small brick houses were erected, of the aggregate annual net value of twelve hundred dollars or more, situated in the district of Kensington, in the said county, had, by two mortgage deeds executed respectively in the years 1828 and 1830, and duly recorded, been conveyed by the said Dyott to the Kensington Bank, in the said county, in mortgage, to secure certain debts and liabilities of the said Dyott to the said bank; and that the said Daniel Man, the elder, for the accommodation of the said Dyott, had paid these two mortgage debts, which, at the request of the said Dyott, had, in the latter part of November, in the year 1837, been assigned by

the said bank to the said Daniel Man, the elder. Under one or more executions issued at the suit of one or more other creditors of the said Dyott, upon a judgment or judgments against him, subsequently obtained, the property thus mortgaged, after levy made, and inquisition, &c. had and duly returned, was, under proper process, advertised by the sheriff to be sold on the 4th day of March, 1839. This was during the hearing of the said Dyott's application aforesaid for the benefit of the insolvent law. The said Ridgway was desirous to become the purchaser at the said proposed sale, but not to be known as such purchaser; and, in this exigency, applied to the said Daniel Man, the elder, to assist him in carrying this design into effect. An arrangement was thereupon made between the said Ridgway and the said Daniel Man, the elder, that the said Man should buy the said premises at the said expected sheriff's sale, and receive the sheriff's deed vesting the legal estate in him absolutely on its face, but under a secret trust for the use of the said Ridgway, who should not afterwards, during an optional period of time, be recognized by the rest of the world as the owner. By agreement between them, the amount due upon the said mortgage debts was computed as together $16,000 principal, and $1,000 interest; the whole being thus $17,000. The said premises were, by the said sheriff, sold on the said 4th day of March, in the year 1839, and by deed dated and duly acknowledged on the 23d of that month, and the acknowledgment duly entered of record, conveyed to the said Daniel Man, the elder, and his heirs, for the consideration of $3,000, subject to the payment of the said mortgage debts; making the cost $20,000; as by the said sheriff's return to the said process, and sheriff's deed, and proceedings thereon, of record more fully appears.

The effect of the arrangement aforesaid, between the said Ridgway and Man, under which the latter was to hold the legal estate of and in the said premises, was afterwards more fully declared in articles of the 23d day of April, 1839, signed, sealed, and delivered by and between them, but never recorded, or proved, or acknowledged under the recording acts. These articles, of which, as part of this bill, a true copy is hereto annexed, recited an agreement of the said Ridgway and Man, that the said Ridgway was, in the language therein used, to purchase the said premises at their said cost of twenty thousand dollars; of which he had paid, or, in the language of the said articles, "loaned" twelve thousand dollars to the said Man, and, according to these articles, had taken his bond for that amount, secured by his mortgage of the said premises. It was stipulated that the said Ridgway was to pay to the said Man, before the execution of any conveyance by him, THE EIGHT THOUSAND

DOLLARS WHICH STILL REMAINED DUE TO HIM. On such payment of eight thousand dollars to the said Man, he was, upon request, to convey the premises to the said Ridgway and his heirs. The said Man was, in the mean time, to deduct, HALF YEARLY, TWO HUNDRED AND FORTY DOLLARS, THE SEMI-ANNUAL INTEREST ON THIS EIGHT THOUSAND DOLLARS, from the rents of the said premises. The said Man, until such conveyance, was to retain possession of and lease the said premises, and account semi-annually to the said Ridgway, his heirs, and assigns, for the net rents; the cost of collecting which was not to exceed five per cent. on the receipts. The said Ridgway covenanted that the said recited or alleged mortgage for twelve thousand dollars should not be assigned, and should not be enforced, unless the said Man should refuse to convey as aforesaid, on request. The said Man covenanted that satisfaction should be entered on the record of the said two mortgages to the Kensington Bank, assigned to him, as aforesaid. All which will, in and by the said articles on reference thereto, more fully appear. On the day next following that of the date of these articles, satisfaction was entered by the said Man on the record of the said mortgages to the Kensington Bank, assigned to him as aforesaid.

At and before the date of these articles, and until the death of the said Ridgway, which occurred about four years afterwards, there was the most unreserved and implicit mutual confidence and good understanding between him and the said Daniel Man, the elder. Such was this confidence, that no such mortgage, to secure the cautionary bond of the latter for twelve thousand dollars, as was recited in the said articles, was ever recorded. The complainant doubts if any such mortgage was even executed. If it ever was executed, he believes that it was cancelled and surrendered at the time of the execution of the deed of the 2d of February, 1843, hereinafter mentioned.

The premises which were the subject of the said sheriff's deed and writing of the 23d day of April, 1839, were afterwards, under an execution upon a judgment at the suit of another creditor of the said Dyott, again levied upon as his property; and, after inquisition, &c. had and returned, were, under process for that purpose, sold, as his property, by the sheriff of the said county, on the 7th day of February, 1840, to the said Francis M. Drexel, and were by deed, dated and acknowledged on the 7th day of March, 1840, and the acknowledgment duly entered of record, &c., conveyed by the said sheriff to the said Drexel and his heirs. Whether this purchase was thus made by the said Drexel on his own behalf alone, or on behalf of himself and other creditors of the said Dyott, and in trust for their common benefit, the

complainant does not know. He is informed, and believes and avers that, however this may have been, the purpose of the last-mentioned purchase at sheriff's sale, and of the levy and other proceedings on which the sale was founded, was to contest the title of the said Daniel Man, the elder, under the said prior sheriff's sale and deed, upon allegations, never very distinctly defined, of fraud and collusion between the said Man and the said Dyott—whether with or without participation with the said Ridgway, the complainant cannot say—through which alleged fraud and collusion it was charged that other creditors of the said Dyott had been deceived and injured, either with reference to the validity of the said mortgages, or the amounts alleged to have been due or to remain due thereon respectively, or with reference to some other matter or thing, or in some other manner, which the complainant, for want of adequate knowledge on the subject, is unable here to specify.

In the District Court for the city and county of Philadelphia, of March term, 1840, Number 720, an action of ejectment for the recovery of the possession of the said premises was, on or about the 14th day of March in that year, instituted against the said Daniel Man, the elder, at the suit of the said Francis M. Drexel, claiming the right of possession as owner thereof in fee simple. Upon plea and issue joined, there was, in this action, a trial, which resulted, on or about the 27th day of May, 1841, in a verdict for the defendant, Man. On this verdict, judgment was entered in his favor on or about the 12th day of December in the year 1842. In the mean time, a second action of ejectment, on the same alleged title, had been instituted by the same plaintiff against the same defendant, on or about the 24th day of July, in the year 1841, in the Supreme Court for the Eastern District of Pennsylvania, to July term, 1841, No. 43. Upon plea and issue joined, there was in this action a trial, which, on or about the 23d day of December, 1842, resulted in a verdict for the plaintiff, Drexel. On this verdict, judgment was entered in his favor on or about the 31st day of that month. Under a writ of *habere facias possessionem*, issued on this judgment, the said Daniel Man, the elder, was, on or about the 19th day of January, in the year 1843, ejected, and the said Drexel put into possession of the said premises by the sheriff.

The rents of the said premises had, until this time, been collected by the said Daniel Man, the elder, or under his direction, and in his name, under the trust vested in him as aforesaid, and accounted for to the said Ridgway. During the latter portion of this time, the said Daniel Man, the elder, had executed this trust, altogether, or principally, through the agency of the said Daniel Man, the younger. Out of the net rents thus col-

lected, the said Daniel Man, the elder, had received and retained the interest accruing semi-annually until the spring of 1841, on the debt of eight thousand dollars so remaining due to him as aforesaid by the said Ridgway, including the half yearly instalment of two hundred and forty dollars interest which fell due in that spring. The interest on the said $8,000 afterwards accruing, was in arrear at the time of the recovery of possession by the said Drexel as aforesaid. From this and other facts, the complainant infers and believes that the net rents collected in the interval between the spring of 1841 and the said recovery of possession by Drexel, were consumed in the charges attendant upon the said litigations. There was, however, in the hands of the said Daniel Man, the younger, unaccounted for at the time of the said recovery of possession by the said Drexel, a sum of $\$158\frac{74}{100}$, or thereabouts, net rents collected in the latter part of the year 1842. This trifling amount, thus in hand, was quite inadequate for the discharge of the dues to counsel, and other charges of litigation already incurred and in arrear. The possession of the premises in controversy having been delivered to the said Drexel, there was no longer an expectation of the receipt of funds from accruing or future rents.

In this state of things, the said Ridgway required that a new action of ejectment should be commenced and prosecuted against the said Drexel, in order to obtain, if possible, restitution of the lost possession of the said premises. In consultation with counsel on the subject, the said Ridgway was advised that if, before the commencement of such an action of ejectment, a conveyance of the legal estate of and in the said premises should be made by the said Daniel Man, the elder, to another person who might sue therein as plaintiff, he, the said Ridgway, would be enabled to examine the said Daniel Man, the elder, on the trial, as a witness, if his testimony should become necessary. For some time past, communications between the said Daniel Man, the elder, and the said counsel, had taken place principally, if not altogether, through the intervention of the said Daniel Man, the younger, as agent of the said Daniel Man, the elder, as aforesaid. This advice of counsel was, therefore, communicated on behalf of the said Ridgway to the said Daniel Man, the younger. The communication was accompanied by a suggestion that the proposed conveyance might be made to the said Daniel Man, the younger, who would thus become plaintiff in the said intended ejectment. The said Daniel Man, the younger, was, on his part, willing and ready to receive such a conveyance of the legal estate, absolute on its face, under a secret confidence that it was to be held by him in

trust as it had theretofore been held by the said Daniel Man, the elder.

Through the said Daniel Man, the younger, a request of the said Ridgway was thereupon communicated to the said Daniel Man, the elder, that he would thus convey the legal fee of and in the said premises to the said Daniel Man, the younger.

The said Daniel Man, the elder, in all the stages of this controversy with Drexel, and the other controversies in which the said Ridgway had been involved as aforesaid in consequence of the said Dyott's insolvency, had sympathized with him, the said Ridgway, whom he had always regarded as an object of unjust and unfounded persecution, and as an intended victim of rapacious oppression which had with difficulty been prevented from overwhelming him. But the said Daniel Man, the elder, was unwilling to continue to sustain, for the sake of the said Ridgway, a burden which he would no longer have willingly borne if the subject of controversy had, in point of interest, been his own. He, therefore, if the said request had not been made on behalf of the said Ridgway, would, as the complainant believes, have, on his own part, insisted on being relieved of the further execution of the trust under which he had held the legal estate of and in the said premises as aforesaid. The said Ridgway, though advanced in years, was his junior. He, the said Daniel Man, the elder, was in his eighty-second year, weary of the cares of life, and sensible of the progressive increase of bodily and mental infirmities, of the full extent of which he constantly dreaded the discovery by others, as has already been stated. Heart-sick of the legal proceedings attendant upon his trust, he was ready to abandon them in utter disgust. Threatened on the one hand with an action for mesne profits at the suit of the said Drexel, he would, on the other hand, have been obliged to commence as plaintiff a new action of ejectment, without funds in hand to meet expenses and liabilities. The said Ridgway did not offer to pay him the said eight thousand dollars remaining due to him as aforesaid, or the interest thereof in arrear, or the sums already paid, or such as might thereafter be respectively payable as charges of the prospective litigation. Both parties, therefore, concurred in the desire to substitute a new trustee in the place of the said Daniel Man, the elder; and, as the said Ridgway was not as yet willing to receive a conveyance of the legal estate in his own name, or avow to the world his ownership, or assume upon himself the burden of the controversy thus to be renewed, they united in the selection of the said Daniel Man, the younger, as the successor of the said Daniel Man, the elder, in the said trust.

The said Daniel Man, the elder, thereupon, at the request of

the said Ridgway as aforesaid, by a writing of the 2d day of February, 1843, afterwards duly recorded, of which, as part of this bill, a true copy is hereto annexed, purporting to be a deed made for the consideration of natural affection, and a nominal pecuniary consideration, conveyed the legal estate of and in the said premises to the said Daniel Man, the younger, and his heirs.

The said Daniel Man, the younger, with privity and full knowledge of the trust upon which the said legal estate was held, accepted this conveyance of the same; and thus became, and was, from its date, seized of the said premises to himself and his heirs, in trust, by proper, lawful, and equitable ways and means, to recover and obtain, if he could, restitution of the possession of the same, and hold the same for the use of the said Ridgway and his heirs. The said Ridgway, while thus the beneficial owner of the said premises, remained indebted to the said Daniel Man, the elder, in the said eight thousand dollars, and such interest thereon as was in arrear.

As, between the said Daniel Man, the elder, and the said Daniel Man, the younger, it was then mutually understood that the said Daniel Man, the elder's, right to this eight thousand dollars, as a debt of the said Ridgway to him, was not in any wise altered or affected by this conveyance of the said legal estate. It was a simple substitution of the said Daniel Man, the younger, as trustee, in place of the said Daniel Man, the elder. The sole and exclusive right of the said Daniel Man, the elder, to the said eight thousand dollars, and interest thereon, was thereafter, from time to time, in various modes, recognized and admitted by the said Daniel Man, the younger, as will hereinafter appear. So far as the said real estate was concerned, the security of the said eight thousand dollars, as between the said Daniel Man, the elder, and the said Ridgway, was regarded as an immaterial, or comparatively immaterial, subject of consideration. The said Ridgway was free of other debts, and possessed of immense wealth. He was, as the complainant believes, the richest inhabitant, or one of the richest inhabitants, of Philadelphia, and was then believed so to be by the said Daniel Man, the elder. Independently of the mutual confidence which subsisted between them, the said Daniel Man, the elder, could therefore safely rely, and he did implicitly rely, on the personal responsibility of the said Ridgway for the said eight thousand dollars. The said Daniel Man, the elder, was, of course, willing to receive payment of interest thereon out of the rents of the said real estate, as he would have been equally ready and willing to receive such payments from any other source. But, if he considered himself as equitably or honorarily interested

therein, for the security of the said eight thousand dollars, as between himself and the said Ridgway, after he had so conveyed the said legal estate, he did not regard himself as thus interested, otherwise than as in a mere collateral security, where no security whatever was needed or required.

The said eight thousand dollars became, at all events, the subject of a trust vested in the said Daniel Man, the younger, when, some years afterwards, in January, 1848, it was received by him, in money, for the use of the said Daniel Man, the elder, as will be hereinafter stated. The complainant is advised that, for this reason, and for others which will hereinafter appear, the questions whether this $8,000, or its interest, was or was not, in the mean time, equitably charged or a lien on the said premises, and was or was not the subject of a trust vested in the said Daniel Man, the younger, as holder of the said legal estate, and whether payment thereof, out of the said premises, could or could not have been judicially enforced, are immaterial questions in this cause. He is advised that, for the purposes of the cause, it suffices to aver, and he does aver, that, as between the said Daniel Man, the elder, and the said Daniel Man, the younger, the latter never acquired or claimed an ownership of, or interest in, the said eight thousand dollars. So far as this legal estate in the said premises did or could enure for the benefit or security of the said Daniel Man, the elder, if it could or did so enure at all, he, the said Daniel Man, the younger, held the same for the use and benefit of the said Daniel Man, the elder, as a security for the said eight thousand dollars.

On the 3d of February, 1843, the day next following that on which the said legal estate was acquired by the said Daniel Man, the younger, as aforesaid, a third action of ejectment was instituted, at his suit, against the said Drexel, in the District Court for the City and County of Philadelphia, in order to obtain restitution of possession of the said premises. On the said 3d day of February, 1843, the said Daniel Man, the younger, wrote with his own hand, as agent of the said Daniel Man, the elder, in the said income-book of the said Daniel Man, the elder, in the series of entries of the latter's current expenses, paid for his own account in the year 1843, an entry, still there extant, in his, the said Daniel Man, the younger's, handwriting, in the words and figures—"Feb. 3d. Paid expenses sh'ff, proth'y, and recorder, Man *v.* Drexel, 4, 62;" thus recognizing the expense of recording the said conveyance to him of the legal estate, and the cost of the said writ of ejectment, incurred by him, the said Daniel Man, the younger, as holder of the said legal estate, the cost of the State tax thereon, and of the sheriff's fees for service thereof, as *charges which were to be borne by the said Daniel Man, the elder.*

This expense was never reimbursed by the said Daniel Man, the younger, or deducted out of the rents of the premises afterwards collected by him, nor was it ever charged by him in any of his accounts with the said Ridgway, in his lifetime, or with his estate after his death. The complainant is advised that, if the other evidence, hereinbefore and hereinafter mentioned, were not in the case, and proof were therefore wanting of a continuing trust in favor of the said Daniel Man, the elder, as to the said $8,000, this entry would, as against the said Daniel Man, the younger, and those claiming under him, suffice to show such a trust; and the complainant submits that, in connection with the former articles of April, 1839, as aforesaid, it does show the said Daniel Man, the elder's, interest in the subject of the said ejectment, as a security for the said $8,000. The complainant prays the benefit of the said entry and other evidence, if required by him, in aid of this view of the case, if this point should hereafter be presented for determination or consideration.

Shortly afterwards, in the spring of the same year, 1843, the said Ridgway died, leaving unpaid the said $8,000, due to the said Daniel Man, the elder, as aforesaid, with such interest as had accrued thereon. The said Daniel Man, the younger, thereupon, or at a subsequent or prior time, conceived, and afterwards fraudulently executed an artful design of imposing himself upon the said Ridgway's representatives, as entitled in his own right to the said eight thousand dollars; and after the death of the said Daniel Man, the elder, which, in the course of nature was to be expected soon to occur, concealing his, the said Daniel Man, the elder's, right to the said $8,000 from the complainant, and from the said Daniel Man King; and, when the same should be paid, receiving it, and wrongfully appropriating and converting it to his, the said Daniel Man, the younger's, own use. From the progressive increase of the said Daniel Man, the elder's, bodily and mental infirmities, and other causes hereinbefore mentioned, there was little reason to apprehend that the said representatives of Ridgway would, through any communication that could probably occur with him before his death, discover the falsehood of this pretence. There was less reason to apprehend its detection after his death by the complainant, or the said Daniel Man King, or any other person representing his, the said Daniel Man, the elder's, estate. As events afterwards occurred, it would, probably, never have been detected, if there had not, after his death, and after that of the said Daniel Man, the younger, been an investigation of a series of frauds perpetrated by the latter, of which this fraud, though the earliest in date which has as yet been detected, was one of the last to be discovered. To consummate his wrongful

purpose, and escape detection, it was, as he conceived, only necessary to prevent any discovery thereof by the said Daniel Man, the elder, so long as he might live. To prevent this, the said Daniel Man, the younger, in his communications with the said Daniel Man, the elder, until the death of the latter, always continued to recognize and acknowledge his right to the said eight thousand dollars, as in continued existence, unaltered and unimpaired.

In the said last-mentioned ejectment against the said Drexel, at the suit of the said Daniel Man, the younger, after a trial and verdict for the plaintiff, there was a judgment against the said Drexel, who prosecuted a writ of error to the Supreme Court, where the judgment was affirmed, and the record remitted to the said District Court, in or about the month of March, 1844. Under a writ of *habere facias possessionem*, shortly afterwards issued, the said Francis M. Drexel was dispossessed by the sheriff, and possession delivered to the said Daniel Man, the younger, in or about the month of April, 1844.

The said Drexel thereupon instituted a fourth action of ejectment for the recovery of the possession of the said premises (the third at his suit), against the said Daniel Man, the younger, in the Supreme Court for the said district, of March term, 1844, No. 71. An issue, joined between the parties in this ejectment, was tried at Nisi Prius, in or about the month of November, in the year 1844. The Court of Nisi Prius was of opinion that, after verdict against verdict in the first and second ejectments aforesaid, and judgments on the said respective verdicts, the verdict followed by a judgment against the said Drexel, in the third ejectment aforesaid, was, according to the proper legal meaning, though not literal sense, of the words used in the statute in that behalf provided, a final and conclusive bar of his right; and therefore gave judgment of non-suit. This judgment was on certificate affirmed by the Supreme Court aforesaid, after an elaborate argument in banc. The judgment of affirmance was thus rendered, in or about the month of April, 1846: Thereupon the said Drexel was afterwards, in the said Supreme Court in Equity, in the same month of April, 1846, as of March term, 1846, Number 3, impleaded at the suit of the said Daniel Man, the younger, whose bill prayed, among other things, an injunction to restrain the said Drexel from alienating the title against which there had been the final adjudication aforesaid. On or about the 20th of April, 1846, an injunction, according to this prayer of the said bill, until further order, was awarded by the said court. This injunction, so far as the complainant knows or believes, remains in force.

Pending the suits and controversies aforesaid, as to the pos-

session and title of the said premises, there had been cross actions of trespass for mesne profits. In one of these actions in the Supreme Court for the said district, instituted on or about the 4th day of March, in the year 1843, as of December term, 1842, Number 179, the said Drexel was plaintiff, and the said Daniel Man, the elder, defendant. In this action, after issue joined, there was a verdict and judgment for the plaintiff for 1,785 dollars 76 cents, or thereabouts. This judgment was afterwards, on certificate after argument, affirmed by the Supreme Court in banc, in April, in the year 1846. The recovery, in this case, was for mesne profits for the period of about seventeen months, during which the said second ejectment, in which there had been judgment in favor of the said Drexel, had been pending as aforesaid. The other action was at the suit of the said Daniel Man, the younger, against the said Drexel, in the District Court for the city and county of Philadelphia, to recover mesne profits for the period of fifteen months, more or less, during which the said Drexel had been in possession of the said premises as aforesaid. The said District Court was of opinion that, on the question of mesne profits, the former judgment in ejectment, in favor of the said Drexel, was conclusive as to the title until his actual eviction under the subsequent ejectment, and gave judgment accordingly for the defendant. This judgment, on a writ of error, prosecuted in the name of the said Daniel Man, the younger, was, in or about the month of April, 1846, reversed by the Supreme Court. The said Drexel thereupon submitted to this court's opinion, as the complainant is informed and believes, conceded his liability for mesne profits, from January, 1843, to March or April, 1844, and deducted a proportional amount for this period of time from the amount of the judgment for mesne profits which he had himself recovered as aforesaid. At some time after the decision of the said court in April, 1846, but the complainant is not certainly informed at what precise time, the controversy as to mesne profits was adjusted, as he is informed, in this or some other manner, and finally settled by the payment of a small pecuniary difference or amount; but what amount he does not know. The judgment against the said Daniel Man, the elder, for mesne profits, was thus discharged; but whether with his own funds, or with funds of the representatives of the said Ridgway, or out of rents of the premises held by the said Daniel Man, the younger, in trust as aforesaid, the complainant is not certainly informed. He prays that in all these respects the truth, so far as in anywise material, may be discovered in the answers of the defendants; and that he may have the benefit thereof, and of such facts as may be proved on the hearing of

the cause, or upon the taking of the accounts hereinafter prayed.

Thus, after jury trials in six actions, four of them ejectments, and two cross-actions for mesne profits, arguments on motions for new trials, &c. &c., in the courts of primary jurisdiction, and four or more arguments in, and decisions by the Supreme Court on the four several certificates and writs of error aforesaid, besides the said proceedings in equity, this controversy with the said Drexel, so long in agitation as aforesaid, was terminated in the year 1846. How, when, by whom, and in what amounts, the counsel employed in opposition to the said claim of Drexel, in its different stages, were compensated for their services rendered in these various and protracted litigations, the complainant is not certainly informed; and prays the benefit of the truth as it may appear in the answers and proofs, or upon the accounts to be taken or otherwise, as if the matters thus discovered or ascertained, had been particularly herein averred. He has ascertained and avers that, for the services rendered by counsel in these litigations to the trust vested, as aforesaid, successively in the said Daniel Man, the elder, and Daniel Man, the younger, the latter, on or about the 8th of December, 1847, charged the executors of the said Ridgway with $2,304 or thereabouts, afterwards with interest to the 11th of January, 1848, estimated as $2,317\frac{47}{100}$. Whether the said Daniel Man, the elder, had theretofore paid the whole or any, and what part or parts thereof, or the said Daniel Man, the younger, had paid the same or any, and what part or parts thereof, with moneys of the said Daniel Man, the elder, the complainant is not certainly informed, and prays may be discovered and ascertained as aforesaid. According to the best of his present information, he believes and avers that the whole or greater portion thereof had been theretofore paid by the said Daniel Man, the elder, or with his funds, and on a settlement made in January, 1848, as hereinafter mentioned, was reimbursed by the said Ridgway's executors to the said Daniel Man, the younger, who thereby became accountable for the same to the said Daniel Man, the elder; and that he never accounted to the said Daniel Man, the elder, or his estate, for the same or any part thereof; and that his, the said Daniel Man, the younger's, executors are now accountable for the same to the estate of the said Daniel Man, the elder. The complainant prays that if, upon the discovery and investigations in the cause, this shall appear to have been the truth, the said executors may be so charged in the account to be taken, as is hereinafter prayed.

It has been already stated that the said Daniel Man, the younger, from his collections of rents of the premises which were the subject of the said controversy, as agent of his said

father, had in hand, in the latter part of the year 1842, while his father still held the legal estate, $158 74

From the subsequent restitution of possession of the legal estate to the said Daniel Man, the younger, in the spring of 1844, as aforesaid, to the end of the year 1848, his receipts of rents of the said premises, from the gross amounts of which a collector's commission of 5 per cent. had been deducted, were in all $6,145 60

Out of these amounts, together $6,304 34

he paid taxes, charges for curbing, laying iron pipes, insurances against fire, repairs, and other expenses, $2,760 13

From the net rents $3,544 21

he deducted, in the fall of 1844 and each succeeding half year, including the fall of 1847, the half-yearly interest accruing on the debt of $8,000, which remained due, as aforesaid, to the said Daniel Man, the elder, and charged the same against the said rents in account with the said executors of Ridgway, to the amount of $1,680 00

In the year 1844, the said Daniel Man, the younger, in like manner, deducted and charged $240, the half-yearly arrear of interest thereon, which had accrued in the fall of 1842, before the conveyance to him of the said legal estate, with $9 35/100 as interest on this item, $249 35

In the year 1846 he, in like manner, deducted the half-yearly arrear of the said interest, which had accrued in the spring of 1843, $240 00

And in the year 1847, the half-yearly arrears accrued in the fall of 1843 and spring of 1844 $480 00

$969 35

$2,649 35

Of the remaining $894 86

he from time to time made payments to Thomas Craven, agent of the devisees of the said Ridgway, amounting in the whole to $509 48

Leaving in hand only $385 38

This sum of $\$385\frac{38}{100}$ was, therefore, according to this result, which is taken from the said Daniel Man, the younger's, own account, hereinafter mentioned, the whole amount of rents which could have been applicable in reduction of the said charge of $\$2,317\frac{47}{100}$ for the services of counsel in the said litigations.

Some of the said half-yearly amounts of interest accruing, as aforesaid, on the said debt of $8,000, from and after the said restitution of possession, in 1844, until the fall of 1847, deducted as aforesaid from the said rents by the said Daniel Man, the younger, as holder of the said legal estate, were by him accounted for and paid to the said Daniel Man, the elder; *whose continued right in and ownership of the said debt of* $8,000, *was thus from time to time recognized and admitted by the said Daniel Man, the younger. The amounts of accruing interest thus accounted for by the said Daniel Man, the younger, in this interval, were entered in the said income-book of the said Daniel Man, the elder; some of them by himself with his own hand, others by the said Daniel Man, the younger, in his the said Daniel Man, the younger's, handwriting.* All entries of the receipt of interest on the said $8,000, after the year 1842, were afterwards, and, as the complainant believes, after the death of the said Daniel Man, the elder, fraudulently erased from the said book by the said Daniel Man, the younger, in order to conceal his accountability for the same, and prevent the detection of the fraudulent artifice, hereinafter mentioned, as perpetrated by him in regard to the principal of the said $8,000. Although the falsifications and erasures of entries in the said book, including these erasures, were so far imperfectly made that some of them are still more or less decipherable, as has been hereinbefore shown, yet the effect of the said erasures and falsifications has been to prevent the complete discovery and ascertainment of all that had been originally entered. The complainant is therefore, at present, unable to state whether the receipt of all the said interest accrued from the said restitution of possession, in 1844, to the end of 1847, deducted as aforesaid from the said rents, was or was not entered in the said income-book, and was or was not accounted for by the said Daniel Man, the younger. While the complainant knows and avers positively that it was in part accounted for as aforesaid, he believes that it was not fully accounted for; and avers, according to the best of his present information, that the estate of the said Daniel Man, the younger, is accountable to the estate of the said Daniel Man, the elder, for some, but he does not at present know how many, of the seven half-yearly instalments of the said interest, amounting, as aforesaid, to $1,680, accruing in that interval.

As to the four half-yearly instalments of prior arrears of in-

terest, accrued while the said Drexel was in possession, and subsequently deducted by the said Daniel Man, the younger, in three items, as aforesaid, from rents collected after the said restitution of possession, and charged by him against the said rents, in his accounts with the said Ridgway's executors, to the amount of $969\frac{35}{100}$, or thereabouts, as aforesaid, the complainant avers that the said Daniel Man, the younger, never in any manner accounted for the same, or made known the receipt thereof to the said Daniel Man, the elder; but fraudulently suppressed and concealed from him the receipt thereof, and wrongfully and deceitfully applied and converted the same to his the said Daniel Man the younger's own use; and that his estate is accountable for the same to the estate of the said Daniel Man, the elder; and that the account hereinafter prayed should be taken accordingly.

At or about the close of the year 1847, or beginning of 1848, the representatives of the said Ridgway, deceased, desiring to obtain from the said Daniel Man, the younger, an absolute declaration of trust in their favor to be substituted for the said articles of April, 1839, offered to pay the said balance of $2,317\frac{47}{100}$, or thereabouts, claimed by him as remaining due for the charges of counsel as aforesaid; and also to pay the debt of eight thousand dollars remaining due to the said Daniel Man, the elder, as aforesaid. The said Daniel Man, the younger, thereupon stated and settled with the said representatives of the said Ridgway, an account of which, as part of this bill, a true copy is hereto annexed; claiming from them, under the designation of "balance attorney's fees" and interest thereon, the

said amount of	$2,317 47
And to the principal of the said debt of . .	8,000 00
Adding interest from 23d October, 1847, to 11 January, 1848	106 66
Of these amounts together	$10,424 13
The sum remaining in hand from collections of rents sufficed, as aforesaid, to pay . . .	385 38
Leaving a balance of	$10,038 75

or, according to the said account, ten thousand and twenty-eight dollars, seventy-four cents, to be paid by the estate of the said Ridgway.

On or about the said 11th day of January, 1848, the said Daniel Man, the younger, received the said balance of ten thousand and twenty-eight dollars and seventy-four cents from the executors of the said Jacob Ridgway; and, on the same day,

subscribed a receipt for it at the foot of the said account as in full thereof; and acknowledged and delivered a sealed writing, dated on the sixth of that month, of which a true copy is hereto annexed as part of this bill. This writing, which has not as yet been recorded, or was very recently prerecorded, refers to no pecuniary transaction between the said Ridgway, his estate, or representatives, and the said Daniel Man the father, or Daniel Man the son, and entirely omits to recite or notice the said former articles of 23d April, 1839. It recites the said sheriff's deed of the 23d day of March, 1839, conveying to the said Daniel Man, the elder, his heirs and assigns, the premises aforesaid subject to the payment of the mortgage-debts aforesaid, and recites that both of these mortgage-debts had been paid and discharged of record. It then recites that the "premises "aforesaid were purchased by, and conveyed to the said Daniel "Man, the elder, as aforesaid, at the request of Jacob Ridgway, "late of the city of Philadelphia, deceased, for his account and "on his behalf; to be held by him, the said Daniel Man, the "elder, his heirs and assigns in trust for the only proper use "and behoof of the said Jacob Ridgway, his heirs and assigns, "by whom the purchase-money was paid; and, when requested "so to do, to convey the same to the said Jacob Ridgway, his "heirs and assigns." It further recites, that the said Daniel Man, the elder, had made the said conveyance of the 2d day of February, 1843, to the said Daniel Man, the younger, "at "the special instance and request of the said Jacob Ridgway." After mentioning the death of the said Ridgway, and the devise in his last will, which included the premises, it proceeds as if there had not been any former declaration of trust; to declare that the said Daniel Man, the younger, his heirs and assigns, did and would stand seized of the premises aforesaid in trust for the use of the said devisees of Jacob Ridgway, their heirs, &c., and would when required, grant and convey the same to them, their heirs, &c.; all which will, in and by the said declaration of trust on reference thereto, more fully appear.

This writing was delivered to the representatives of the said Ridgway by the said Daniel Man, the younger, who, at or about the same time received from them a writing sealed and delivered by the executors of the said Ridgway, dated and acknowledged on the 10th of the said month of January, 1848, of which, as part of this bill, a copy is hereto annexed. By this writing, after a recital of the past existence of a bond of the said Daniel Man, the elder, to the said Ridgway, dated the 23d day of July, 1839, conditioned for the payment of twelve thousand dollars, accompanied with a mortgage of the said premises, that this bond and mortgage had been fully discharged, and the said

bond thereupon delivered up to the said Daniel Man to be cancelled, but that the mortgage had not been recorded, and was lost or mislaid, and could not be found, the said executors covenanted jointly and severally with the said Daniel Man, that, in the event of their finding the said mortgage, it should be delivered up to him, his heirs, executors, or administrators, cancelled, and in the meantime would indemnify him and them, &c., against the same; as in and by the said writing will, on reference thereto, more fully appear.

The complainant has already suggested a doubt whether any such mortgage for twelve thousand dollars ever existed. The said writings of the 23d of April, 1839, and 10th of January, 1848, which would otherwise indicate that there had been such a mortgage, are not reconcilable with each other in their description of it. Both obviously refer to one and the same supposed mortgage. The writing of April, 1839, nevertheless declares it to have been then already executed; while the writing of January, 1848, describes it as having been executed in July, 1839, three months later. The complainant refers again to this mortgage, not as a subject of any importance in itself, but as one of many circumstances which indicate that the said Daniel Man, the elder, was not consulted in the course of these transactions, or aware of their progress. The said Daniel Man, the younger, was desirous to conceal, and did, as the complainant believes, conceal the whole of them from the knowledge of the said Daniel Man, the elder. The mental faculties of the said Daniel Man, the elder, were, by this time, so much impaired that, independently of his increasing blindness and deafness, and his reluctance to incur the burden of attending to worldly business—a reluctance increasing as aforesaid with his increasing age—it was very easy to conceal them from him.

The complainant is quite certain, and avers positively, that the said Daniel Man, the younger, never, in any manner, accounted to the said Daniel Man, the elder, for the principal of the said debt of eight thousand dollars, so received, for his use, as aforesaid, from the executors of Jacob Ridgway, or, in any manner made known to the said Daniel Man, the elder, that it had been paid. The said Daniel Man, the younger, intending wrongfully to convert the same to his own use, from the time of its receipt until his own death, fraudulently concealed the fact of its receipt from the said Daniel Man, the elder, in his lifetime, and from those interested in his estate after his death. He fraudulently concealed also, from those interested in his estate, the existence of all the said writings, which would have exhibited the true nature and character of the said transactions.

In order the better to elude and prevent the discovery, by the

said Daniel Man, the elder, of the fact that the said principal sum of eight thousand dollars had been paid, as aforesaid, and preclude inquiry on his part upon the subject, the said Daniel Man, the younger, from the time of its receipt until the death of the said Daniel Man, the elder, was in the habit of regularly paying to him, half-yearly, the sum of two hundred and forty dollars, under the artful, and fraudulent, and deceptive pretence of its being the half-yearly interest accruing on the said eight thousand dollars, deducted by him, the said Daniel Man, the younger, for the account of the said Daniel Man, the elder, as it had formerly been deducted from the said rents as collected. *In the said income-book, from the time of the receipt of the said principal, in January*, 1848, *as aforesaid, until the death of the said Daniel Man, the elder, in January*, 1852, *entries were from time to time made, some of them by the said Daniel Man, the elder, others by the said Daniel Man, the younger, of the receipt of the accruing interest on the said eight thousand dollars, as though it were still unpaid, and as though such interest upon the same, as a debt remaining due by the estate of the said Ridgway, had, from time to time, during these four years, been received.*

These entries, as well as the prior entries aforesaid, of the receipt of interest on the said $8,000, *after* 1842, *were, after the death of the said Daniel Man, the elder, or at some other time, fraudulently erased by the said Daniel Man, the younger, from the said account-book, in order to prevent the detection of the said fraudulent artifice, so practised on his said father, in his lifetime, and conceal his accountability to the estate of his said father.* In a prior part of this bill, the complainant has given a specification of erasures and falsifications of entries, which include those of entries relating to interest and pretended interest on the said eight thousand dollars, which have thus far been discovered or detected.

The said Daniel Man, the younger, in the said month of January, 1848, shortly after the receipt of the said sum of ten thousand and twenty-eight dollars seventy-four cents, lent five thousand dollars thereof, pretending that it was his own money, on the bond of the borrower, well secured by a mortgage of real estate in the city of Philadelphia, dated on the 12th of that month, recorded in Mortgage-book A W M, No. 22, page 178. This mortgage the said executors of his last will and testament have wrongfully included in the inventory of his personal estate, as part thereof, whereas the complainant shows that it was a part of the estate of the said Daniel Man, the elder. The complainant, if it should, by the court's decree, be determined so to have been, is, on his part, ready and willing to receive the same, or the proceeds or avails thereof, if collected, or any security that may have been, or may hereafter be, substituted as an investment

thereof, as representing, in favor of himself, or of himself and the said Daniel Man King, so far as it may suffice therefor, his or their share of the said ten thousand and twenty-eight dollars and seventy-four cents, or of so much thereof as the estate of the said Daniel Man, the younger, is or may be accountable for.

The complainant is advised that, in the taking of the account hereinafter prayed, the said Daniel Man, the younger, is chargeable, under this head, with the said $\$385\frac{38}{100}$, in addition to the said $\$10{,}028\frac{74}{100}$, together $\$10{,}414\frac{12}{100}$. As to $\$2{,}317\frac{47}{100}$ of this amount, paid by the executors of the said Ridgway, as the balance due to counsel for professional services, the complainant, referring to his former allegations, prays that there may be full discovery in the defendant's answers, and proper investigation in the taking of the said account. He does not believe that the same, when received, or any part thereof, was required in order to pay to counsel dues which had not already been paid. The complainant prays that, unless the contrary should in this respect appear, the same may be decreed to have belonged to the said Daniel Man, the elder, and that the estate of the said Daniel Man, the younger, account for the same to the estate of the said Daniel Man, the elder.

As to the remaining $\$8{,}096\frac{65}{100}$, which ought to have been computed as $\$8{,}106\frac{66}{100}$, the complainant is advised and respectfully submits that there should, at all events, be an absolute decree that the same, including the said mortgage for five thousand dollars, is to be deemed to have been money of the said Daniel Man, the elder, and not of the said Daniel Man, the younger, and that the account hereinafter prayed be taken in this respect accordingly.

§ 51. Claim against Daniel Man, Jr.'s, estate, of $20,889 and 41 cts., and of other sums received by him or hereafter receivable from Peisch's estate, with averments as to securities derived specifically therefrom, and history of litigations as to that estate, with incidental averments, &c.

Under another particular head of the relief hereinafter prayed, the complainant, referring to what has already been stated of and concerning $20,000, more or less, received or receivable from the estate of one Abraham Peisch, shows that the said Peisch, in the month of July, 1814, having theretofore become insolvent, made an assignment of all his property, for the benefit of his creditors, to Jacob Ritter, Junior, Jacob Idler, and John Greiner, of whom the said Jacob Idler was, in the year 1845, the sole survivor, in trust, to convert the same into money, and, after payment of expenses of the trust, and of duties to the United States, to pay, *first*, certain promissory notes therein particularly described, and stated to have been issued and applied to the use of the assignor, and certain sums of money therein specified as having been borrowed by him of the respective persons therein

named, these notes and sums of borrowed money, amounting, as therein specified, in their aggregate, to $57,038 79/100, "*and also all "other notes issued, or indorsements made, for and on the proper ac- "count, and for the proper use and benefit of the said Abraham Peisch, "although the same were not thereinbefore particularly described or "stated*, it being the true intent and meaning of those presents "that the holders of notes issued, or indorsements made, by the "said Abraham Peisch, for the use of others, should be postponed "to the class of creditors thereinbefore mentioned;" and, *secondly*, his debts to all other creditors who should release him within a period of time therein limited.

All the debts due to the United States, by the said assignor, were paid by the said assignees out of their earlier collections, made under the trust, except a judgment in a joint and several bond of John B. Foussat, above named, and the said assignor, conditioned for the payment of the duties on an importation of the said Foussat, as to which the said assignor was his surety. The mode in which this judgment was paid is not a relevant subject of present consideration; but will be mentioned under a subsequent head of this bill.

Of the debts of the said Peisch, amounting to $57,038 79/100, particularly specified in the said assignment as embraced in the first of the two remaining classes, for the payment of which provision was made therein, as aforesaid, all except one debt for $1,000, were afterwards recognized as entitled to dividends in this first class. The remaining $56,038 79/100 were the only debts recognized as embraced in this class. No other debt was ever proved to be embraced within the said general description of "notes issued, or indorsements made for and on the proper account and for the proper use and benefit of the said Abraham Peisch." Of the $56,038 79/100 recognized as in the said first of these two classes, eight promissory notes, for, together, $8,945 09/100, were described in the said assignment as having been issued to the said John B. Foussat and Company. Of these eight notes, the said Daniel Man, the elder, held seven, for, together, $7,954 09/100. He also held another note therein specified for $1,500. In addition to these amounts, in the whole $9,454 09/100, he from time to time, through transfers, acquired from other creditors of the said Peisch a much greater portion of the debts recognized as in the said first class; and was thus the largest creditor in amount of that class.

By nine dividends received from the said assignees at different periods, beginning in 1822, and ending in 1837, the principal of all the debts recognized, as in the said first class, was paid in full, so far as the trust was concerned.

From the collections of the said assignees beyond the amounts required for the purposes aforesaid, and the expenses of the trust, there came to the hands of the said Idler, as the surviving trustee, a fund, of which the net value, as estimated in the year 1852, was $24,515 49/100. The assigned estate had, however, in the year 1828, become indebted to Jacob Ritter, Junior, one of the trustees, for an advance on which a balance of $2,207 42/100 remained due on the 1st of November, 1839. When the said estimate was made, in 1852, this balance amounted with its interest to $3,837 69/100; leaving for distribution among creditors an estimated net amount of $20,677 85/100.

Some of the creditors, who had been recognized as in the said first class, insisted that the interest accrued on the debts in this class should be paid before any payment on account of debts in the said second class. But by the decree of the Court of Common Pleas of Philadelphia County, affirmed by the Supreme Court of Pennsylvania, this claim of interest on debts, in the said first class, was afterwards wholly rejected and disallowed, as will appear below.

The said Daniel Man, the elder, within the period limited by the said Peisch's assignment, had executed the release therein required of creditors in the said second class. Besides the notes as to which he had been recognized, as aforesaid, as a creditor in the said first class, he held other promissory notes, drawn or indorsed by the said Peisch, amounting to $53,136 70/100, as to which he had never been recognized as a creditor in the said first class, but was admitted to be a creditor in the said second class. The debts in the said second class amounted, in the whole, to $64,509 70/100, including the said $53,136 70/100, if regarded as a debt in this class. The said Daniel Man, the elder, as a creditor in this class, would thus have been entitled to receive $17,032 18/100, as his portion of the said $20,677 85/100.

The fund, of which the value has been given, as above, from an estimate made in the year 1852, was the result of collections of moneys by the said assignees, made many years before. In the early part of the year 1845, the distribution of these moneys, which were then in hand, was in prospect, and was a subject of consideration and discussion among parties claiming to be interested. The said Daniel Man, the elder, then in the 84th year of his age, was represented in these discussions by the said Daniel Man, the younger, who acted as his agent in respect to his claims upon the said Peisch's estate. The said Daniel Man, the younger, acting in this capacity, set up, on behalf of the said Daniel Man, the elder, a claim to the whole of the fund remaining for distribution, alleging that the said notes for $53,136 70/100, on which no dividend had as yet been paid,

had been issued or indorsed, and applied for the account and use of the said Peisch; and that the said Daniel Man, the elder, as holder of them, was therefore of right a creditor in the said first class.

There was no aspect of the case in which the said Daniel Man, the elder, would not have been entitled to receive several thousand dollars from this fund. The worst aspect of it for him would have been that in which creditors of the said first class would receive their interest before payment of the principal of debts in the second class. Even in that case, however, he would, in his recognized character of the largest creditor in the first class, have participated ratably in the distribution of such interest. According to the decision, then confidently anticipated, and afterwards pronounced against the claim of such interest, he would not have received less than $\$17{,}032\frac{18}{100}$, though the said notes for $\$53{,}136\frac{70}{100}$ had been regarded as a debt in the second class. If the pretension advanced, as aforesaid, by the said Daniel Man, the younger, on his behalf, to bring them into the first class, were sustainable, he would be entitled to receive the whole fund afterwards valued at $\$20{,}677\frac{87}{100}$. The amount really involved in this pretension of the said Daniel Man, the younger, on his behalf, was, therefore, $\$3{,}645\frac{67}{100}$, the difference between $\$20{,}677\frac{87}{100}$ and $\$17{,}032\frac{18}{100}$.

The fact that the said notes for $\$53{,}136\frac{70}{100}$ had been issued or indorsed and applied for the use and account of the said Peisch, on the proof of which the claim for this difference of $\$3{,}645\frac{67}{100}$ was dependent, as aforesaid, was not shown to be true. More than thirty years had elapsed since the date of the said Peisch's assignment. The said Daniel Man, the elder, while in the full possession of his mental faculties and bodily energies, had submitted to, and had acquiesced in, the exclusion of the said notes for $\$53{,}136\frac{70}{100}$ from the said first class of debts. The creditors who opposed the pretension of the said Daniel Man, the younger, to bring them into this class, relied on the said acquiescence as well as on the insufficiency of his attempted proofs that they had in fact been so issued or indorsed and applied. To remove the difficulty arising from the said imputed acquiescence, the said Daniel Man, the younger, endeavored to show that the said Daniel Man, the elder, had been misled in former years by information of an opinion reported to have been given by counsel that no debt not particularly specified in the said assignment as of a given amount, and due to a party therein named, could legally be included in the said first class by force of the general words of description therein contained. The said Daniel Man, the younger, failed, however, to show that such an opinion had been

given in writing; and adduced no credible or satisfactory proof that it had been given orally.

The said Daniel Man, the younger, also set up a pretension as between the said Daniel Man, the elder, and another creditor to correct an alleged mistake in former accounts of only a few hundred dollars in amount, but involving an investigation of numerous intricate and perplexing transactions of by-gone date; still further complicating the business of the estate so far as the said Daniel Man, the elder, was concerned; and if he was then informed of it, and capable of understanding it, harassing and worrying him, at a period when he was peculiarly susceptible of annoyances from such causes. He had theretofore learned to look upon litigation with a disgust and abhorrence which have been described. The said litigations with Drexel, and other litigations consequent upon the said Dyott's insolvency, so far as he retained the faculty of memory, were fresh in his recollection. He had, likewise, as will be shown under a future head of this bill, encountered aggravated disappointments as to another complicated subject of controversy and litigation, in the District of Columbia, and elsewhere, connected with his interest in a claim of the said Sibbald, upon the United States.

The said Daniel Man, the elder, so far as then capable of understanding the business of the said Piesch's estate, as the said Daniel Man, the younger, had thus complicated it, was very reluctant to incur the burden and vexation that would, in his apprehension, be attendant upon the litigation which was to determine the amount, greater or less, receivable by him from the said fund. The said Daniel Man, the younger, craftily took advantage of this reluctance; and artfully proposed to relieve him of the said burden and vexation, by taking from him an assignment of all his claims upon the said Peisch's estate, absolute on its face, but under a *secret* trust and confidence that it should enure for his use and benefit; and soon after, on or about the 19th day of March, in the year 1845, succeeded in procuring his signature opposite to the seal at foot of a writing of that date, of which, as part of this bill, a true copy is hereto annexed purporting to be an absolute deed of transfer, for the consideration of natural affection and a nominal pecuniary amount of all his right, title, interest, claims, demands, and dividends due or becoming due, from the said estate of Abraham Peisch or his assignee, the said Jacob Idler, to the said Daniel Man, the younger, and setting forth that he therewith delivered all the promissory notes drawn or indorsed by the said Peisch, theretofore owned and held by him to the said Daniel Man, the younger.

Through the pretence or formality of a delivery of the said

writing and of the promissory notes therein mentioned, the said Daniel Man, the younger, thereupon obtained possession of the said writing and notes.

How far the said Daniel Man, the elder, did or did not understand, or mentally comprehend the purport or effect of the said writing, or advisedly part with possession of the said notes, the complainant, for causes already set forth, does not certainly know. He believes and avers that the said Daniel Man, the younger, in the steps which he took in the matter, acted with the assistance of counsel; while the said Daniel Man, the elder, had no such assistance; but acted altogether without professional or other aid of any sort; and never even saw, with reference to this transaction, the counsel with whom the said Daniel Man, the younger, was in consultation on the subject. Independently of any communications between the said Daniel Man, the elder, and the said Daniel Man, the younger, that may be shown to have preceded, attended upon, or followed the making of the said writing, the complainant is advised and avers that the said Daniel Man, the younger, in the fiduciary relation in which he stood to the said Daniel Man, the elder, was, in the then bodily and mental condition of the latter, incapable of receiving and retaining for his, the said Daniel Man, the younger's own absolute use, any gift or transfer made without adequate consideration, and a full mutuality of benefit and advantage. There were no circumstances in this case to rebut the legal and equitable presumption of undue influence, fraudulent breach of confidence, and unfair advantage taken, arising from the relation of the parties towards each other, and from the character of the act itself.

The complainant therefore avers that the said writing vested no property in the said Daniel Man, the younger, in his own right in the subjects thereof; but was either null and void, or enured for the use of the said Daniel Man, the elder, under a trust and confidence resulting for his benefit.

If the question of the validity or effect of the said writing as an absolute transfer were determinable solely with reference to particular attendant circumstances, there were, as the complainant believes, attendant circumstances which would render the same null and void. The complainant has reason to believe and avers that the said Daniel Man, the younger, in order to procure the said signature of the said Daniel Man, the elder, to the said writing, and obtain from him the said formality of a delivery thereof did, before and at the time of procuring the same, use various artful contrivances, devices, and manœuvres, and by words and acts make many deceptive and fraudulent misrepresentations and false pretences and assurances to induce

in the said Daniel Man, the elder, a belief either that the said writing was received in confidence under the trust aforesaid, or was not in purport, effect, or intent, an absolute transfer of his right and claim in and upon the said assigned estate of Peisch.

The complainant, under this head of his bill, asks the benefit of the circumstances hereinbefore and hereinafter averred and set forth in relation to other portions of the property of the said Daniel Man, the elder, which were the subject of the deceptive and fraudulent contrivances of the said Daniel Man, the younger, mentioned under other heads of the bill. The complainant is advised that these contrivances will be taken into consideration by the court in determining the effect of this, or any other act of the series of which it was a part or item.

The subscribing witnesses to the execution of this pretended deed were John Jordan, Junior, one of the defendants in this case, and Francis Jordan. They were present and saw the signature of the said Daniel Man, the elder, subscribed by him, and witnessed the formality of the reception by the said Daniel Man, the younger, of the notes therein mentioned. The present privity in interest or title of the said John Jordan, Junior, since acquired, has induced the complainant to cause inquiry to be made of him, and through him, of the said Francis Jordan, as to the circumstances attendant upon its execution and the said reception of the said notes. The result of this inquiry has been the receipt of information by the complainant, and he avers the truth to have been, that nothing was said to the said Daniel Man, the elder, in explanation of the contents, purport, or effect of the said pretended deed, or of its nature or operation, in the presence or hearing of the said witnesses, or either of them. It was wholly written by the said Daniel Man, the younger, in a hand too fine to have been readable by the said Daniel Man, the elder, who, as the complainant believes and avers, had no other knowledge or mental impression of its contents or effect, than such as may have been theretofore suggested or intimated by the said Daniel Man, the younger, in their previous private intercourse.

The complainant avers that from one or more or all of the causes aforesaid, the said Daniel Man, the elder, so far as cognizant of what he was doing, believed either that the said pretended deed was not an absolute transfer, or that it was received in trust and confidence as aforesaid.

The complainant has been informed, and believes, that the said Daniel Man, the younger, exaggerated in his own mind the value and importance of his supposed services to the said Daniel Man, the elder, in advancing on his behalf the said pretension, that the notes aforesaid for $\$53{,}136\frac{70}{100}$ were in-

cluded in the first of the said two classes of debts. The complainant also believes that the said Daniel Man, the younger, in his communications with the said Daniel Man, the elder, which preceded the signature of the said writing of the 19th of March, 1845, exaggerated the value and importance as well of the said services as of the future services which he was to render in maintaining the said pretension through the successive stages of anticipated litigation. From circumstances of which the complainant has lately been informed, he deems it not improbable that the said Daniel Man, the younger, anticipating success in the approaching controversy, expected, if the said Daniel Man, the elder, should be living at its termination, to receive from him as a present, or by way of compensation for such services, the whole or some part of the said excess since ascertained as $\$3,645\frac{67}{100}$ of the sum ultimately recoverable according to this pretension from the said Peisch's estate beyond the dividend on the said $\$53,136\frac{70}{100}$, which the said Daniel Man, the elder, would, independently of this pretension, have been entitled to receive as a creditor in the said second class. The complainant is not sure that the said Daniel Man, the younger, may not have endeavored to persuade, or succeeded in persuading himself, that he was authorized, as between himself and the said Daniel Man, the elder, to regard the said writing of the 19th of March, 1845, purporting to be a transfer of the whole claim aforesaid on the said Peisch's estate, as a security for his own use as to the whole, or some portion of any such difference or excess as might ultimately be recoverable from the said estate.

The complainant has no certain knowledge that the said Daniel Man, the younger, until the death of the said Daniel Man, the elder, meditated or intended to claim an absolute property in his own right, in the *whole* amount or amounts recoverable from the said estate. As to the amount recoverable independently of the new pretension advanced as aforesaid by the said Daniel Man, the younger, the complainant does not certainly know that he did not always, during the lifetime of their said father, intend to execute as a trust, the confidence vested in him as aforesaid, for the use and benefit of their said father. That he intended to fulfil and execute such a trust when he procured and obtained the said writing of the 19th of March, 1845, is indicated by an almost contemporaneous paper engrossed in his own handwriting, and subscribed and sealed by him, dated the 24th of the same month of March, 1845, recognizing still subsisting claims of the said Daniel Man, the elder, as well as of the said Daniel Man, the younger, upon the said assigned estate of Peisch; when, according to the literal purport and apparent effect of the said

writing of the 19th of March 1845, the said Daniel Man, the elder, had absolutely and irrevocably parted with all and every such claim. The complainant prays that the said defendants may be compelled to produce the said writing of the 24th of March, 1845, which is or was lastly in the possession or control of them or of some of them, and in the mean time refers to a true copy of it hereto annexed as part of this bill. It was an agreement signed and sealed by and between the said Daniel Man, the younger, as assignee of the said Daniel Man, the elder, one of the creditors of the said Abraham Peisch's estate, and the professional gentleman who had been retained as attorney and counsel to prosecute the claim. It was thereby agreed that he should "prosecute the claim of the said Daniel Man, Junior, *and Daniel Man, Senior*, upon the said estate of Abraham Peisch and the assignee, Jacob Idler, and that he" should "receive for his compensation" a certain percentage therein mentioned "on the first sum of $\$6{,}652\frac{3}{100}$, recovered in any manner by the said D. Man, Jr., or *D. Man, Sr.*, or *either of them*, from the said estate or the assignee, Jacob Idler, and the proportion thereof, in case a less sum should be received as aforesaid;" and it was "further agreed that" he "should receive" a different percentage therein mentioned "on the balance of the other sums of money recovered by the said D. Man, Jr., or *D. Man, Sr.*, or *either of them*, from the said estate of Abraham Peisch, or the assignee, Jacob Idler." Without waiving any former allegation of the bill, the complainant relies on this writing as a declaration or recognition by the said Daniel Man, the younger, of a trust, or as evidence of a trust, vested in him in favor of the said Daniel Man, the elder, under the said previous transfer, if the same was otherwise in whole or in part in anywise valid or effectual.

The complainant, not admitting that the said Daniel Man, the elder, understood, or mentally comprehended at all, even partially or imperfectly, the character or effect of the said writing of 19th March, 1845, as a transfer of any portion of his interest in the said Piesch's estate; but, insisting that if he did, in anywise, even partially understand or mentally comprehend that he was making such a transfer or any transfer, he supposed and believed that it was attended with a confidence and trust for his own use as to the whole amount recoverable, further shows to the court, and respectfully submits that if, under other particular aspects in which the case has been alternatively above presented, it should be held that the said writing might have enured in favor of the said Daniel Man, the younger, as to the whole or any part of the difference ultimately ascertained as $\$3{,}645\frac{67}{100}$ between the amount receivable on account of the said $\$53{,}136\frac{70}{100}$ regarded as a debt in the said first class, and the amount re-

ceivable on account of it as a debt in the said second class, then, forasmuch as the prosecution of the controversy, moved as aforesaid by the said Daniel Man, the younger, as to the said difference, was wholly unsuccessful, as will be hereinafter shown, and as nothing whatever was recovered under this head, the said Daniel Man, the younger, in his lifetime, and his estate since his death, would in equity and good conscience have no claim whatever to any portion of the funds of the said Peisch's estate.

The accounts of the trustees of the said assignment of Abraham Peisch, filed in the Court of Common Pleas of Philadelphia County, were by that court referred, in the fall of the year 1845, to auditors, to report the distribution which should be made of the said fund. Pending the proceedings before the said auditors, the said Daniel Man, the younger, on or about the 26th day of January, in the year 1848, made, in his own name, a purchase or acquisition from the personal representative of the said Ritter, then deceased, of all the right and interest of his, the said Ritter's estate, in the said assigned estate; including the said balance of $\$2,207\frac{42}{100}$ remaining due since the first day of November, 1839, as aforesaid; and obtained from the said personal representative a written transfer thereof, dated on or about the said 26th day of January, 1848, and an irrevocable power of attorney of the same date to receive the same. The complainant avers that these writings are in the possession or control of the defendants, or of some of them, and prays that they may be produced. In the mean time, he annexes true copies thereof, as part of this bill.

The consideration of this purchase or acquisition is in character and amount unknown to the complainant. If it was in part or in whole pecuniary, the complainant has no doubt that it was paid out of the large amount of money of the said Daniel Man, the elder, obtained by the said Daniel Man, the younger, a few days previously, from the said executors of Ridgway, as has been already stated; or was paid by him with other funds of the said Daniel Man, the elder, of which he, the said Daniel Man, the younger, had, through his fiduciary relations aforesaid, acquired the possession or control; should it appear to have been paid in money, the complainant therefore avers that it was money of the said Daniel Man, the elder. But the complainant, according to the best of his present information, believes and avers that no pecuniary consideration whatever was paid by the said Daniel Man, the younger, on or for the said transfer. The consideration for which it was made and executed was, as the complainant, according to the said information, avers, a release or forbearance to prosecute or insist on cer-

tain charges which the said Daniel Man, the younger, made on the accounting aforesaid, or had threatened to make for alleged acts or omissions of the said Jacob Ritter, Junior, in his lifetime, or his representatives since his death, which, as it was alleged by the said Daniel Man, the younger, had rendered the said Ritter, or his estate, liable to the estate of the said Peisch. These charges, if established, would only have enured to the benefit of the said Daniel Man, the younger, as claiming in right of the said Daniel Man, the elder, under color of the said pretended deed of the 19th of March, 1845. The said purchase or acquisition under this transfer from the representative of the saidRitter therefore enured, at all events, to the use and benefit of the said Daniel Man, the elder. If it should appear, as the complainant believes it cannot possibly appear, that any consideration in the said Daniel Man, the younger's, own funds passed from him to the said Ritter's representative, the complainant is advised that in the fiduciary relation which he, the said Daniel Man, the younger, then occupied, he was, in that case, accountable to the said Daniel Man, the elder, and his estate is accountable to the said Daniel Man, the elder's, estate, for such profit as may have been made on the said purchase and investment; and that the account hereinafter prayed will, in that event, be taken accordingly. The complainant prays, that under this head his bill may stand, as adapted to such truthful aspect as the case under any one of the said alternatives may present upon the hearing.

The complainant believes and avers that the said purchase or acquisition from, and transfer by the said Ritter's representative, were artfully suppressed from the said Daniel Man, the elder, by the said Daniel Man, the younger, who, deceitfully intending to convert to his own use the proceeds and avails thereof, fraudulently concealed the same, and withheld the knowledge thereof from him.

The said auditors, in the spring of the year 1851, when the said Daniel Man, the elder, was in the ninetieth year of his age, reported to the court; disallowing the claim of interest on debts in the said first class, and wholly disaffirming the allegation of the said Daniel Man, the younger, that the notes amounting, as aforesaid, to $\$53{,}136\frac{70}{100}$ were included in that class of debts. In these particulars the said report was, after argument upon exceptions, confirmed by the said court; whose decree, made after the death of the said Daniel Man, the elder, on the 21st of February, 1852, the day of the complainant's said arrival at New York from California, awarded to the said Daniel Man, the younger, $\$20{,}889\frac{41}{100}$, that is to say, $\$3{,}857\frac{23}{100}$, as the balance, with interest transferred to him, by the personal

representative of Ritter, the deceased assignee as aforesaid, and $17,032\frac{18}{100}$, the dividend on the said $53,136\frac{70}{100}$ as a debt in the said second class. According to this decree, the remaining $3,645\frac{67}{100}$, which had been the particular subject of the controversy moved by the said Daniel Man, the younger, as aforesaid, was distributable among the other creditors in this class.

On cross-appeals by the said Daniel Man, the younger, on the one hand, and creditors recognized as in the first class, whose claim of interest had been rejected as aforesaid, on the other hand, this decree was, after argument and consideration, confirmed by the Supreme Court after the death of the said Daniel Man, the younger. His executors threaten and intend to receive the whole amount of $20,889\frac{41}{100}$ aforesaid, and wrongfully claim to retain the same as part of his estate, altogether denying that either the said $3,857\frac{23}{100}$, or the said $17,032\frac{18}{100}$, is to be regarded as part of the estate of the said Daniel Man, the elder.

The complainant respectfully submits to the court, and insists that both of these amounts, together with their respective increments, arising from accumulated interest, dividends, reinvestments, and advance in the price or value of investments and reinvestments, as will appear on the account to be taken as hereinafter prayed, are in equity and good conscience part of the estate of the said Daniel Man, the elder.

The complainant has reason also to believe, and avers that the said Daniel Man, the elder, before the date of the said writing of 19th March, 1845, and that the said Daniel Man, the younger, afterwards, with moneys of the said Daniel Man, the elder, acquired by purchases, and through transfers, the ownership of, or some interest in, other claims embraced in the said second class; and that the said Daniel Man, the younger, in right of such interest or ownership received, or that his executors have received, or claim, and threaten, and intend to receive dividends under such transfers, which, or some of which, ought likewise to be regarded as parts of the estate of the said Daniel Man, the elder, and to be accounted for accordingly. The complainant prays that, as the truth may appear under this head, the account hereinafter asked may be taken.

The complainant moreover shows to the court that the said Daniel Man, the younger, had secretly or openly obtained from the said surviving assignee of the said Peisch a power of attorney, to enable him, the said Daniel Man, the younger, in the name of the said assignee, to collect funds of the said estate. The complainant prays a discovery whether any, and if any, what collections were made under this authority; and prays that a proper

account thereof may be taken, and that the court will take such order thereon as may be conformable to equity and good conscience, and the complainant's just rights in the premises.

The complainant moreover avers that the said Daniel Man, the younger, under the said agency, on behalf of the said surviving assignee, or as a partial security for the amount decreed to him as aforesaid, or in part payment of the same, became possessed of four certificates of funded debt of the State of Pennsylvania, bearing interest at the rate of five per cent. per annum, together for the principal amount of $16,496, or some other large sum of money, all in the name of the assignees of the said Peisch, which remained unconverted in his, the said Daniel Man, the younger's, possession at his death, still in their name. Since his death, under proceedings in the Court of Common Pleas of Philadelphia County, at the instance of his executors, the said surviving assignee has been dismissed from his office of trustee of the said Peisch's estate, and the defendant, Jordan, one of the said executors of Daniel Man, the younger, and executor of the said Daniel Man, the elder, appointed trustee in his place. The complainant is apprehensive that the said Jordan, as such trustee, and the said Jordan and Paul as executors of the said Daniel Man, the younger, intend to treat these securities, and for aught that the complainant knows, other such securities and funds, which he is now unable to specify, as general funds of the said Peisch's estate, instead of treating them as a fund or security for the payment of the amounts so as aforesaid decreed to be payable to the said Daniel Man, the younger, and claimed in this bill as part of the estate of the said Daniel Man, the elder. He prays that the true character of their equitable ownership in this respect may be investigated and ascertained under the direction of the court, in order that the same, if it ought to be specifically appropriated as last aforesaid, may be set apart accordingly, and abide the order and direction of this court.

And the complainant lastly, under this head of the relief hereinafter prayed, shows to the court that the said Jordan, as such assignee of Peisch's estate, and of the said Jordan and Paul, as executors of the said Daniel Man, the younger, threaten and intend to collect, and, unless prevented by the court's interposition, will, as the complainant fears, proceed to collect other outstanding credits, property, and effects of the said Peisch's assigned estate, and hold, retain, or distribute the same, or all portions thereof to which title may be derivable, under the said Daniel Man, the elder, as part of the estate of the said Daniel Man, the younger. This, as the complainant has shown, would be con-

trary to equity and good conscience; and he prays that he may be prevented by the interposition of the court.

§ 52. Claim to proceeds of suits against Griswold for $12,560 and 38 cts., and interest; with incidental averments.

The complainant, under another particular head of the relief hereinafter prayed, shows that the Columbian Insurance Company of New York, in or about the year 1814, was an insolvent corporation, whose property and effects were in the possession and under the control of trustees appointed under the laws of New York, to liquidate the debts and wind up the affairs of the said corporation. In or after that year, the said property and effects were moreover assigned by deed by the said corporation to the said trustees. Several dividends among the creditors of the said corporation were made by the said trustees; the first, twenty per cent. on the debts of the said corporation in or before the year 1816; the second, ten per cent. in or about the year 1819; the third, five per cent. in or about the year 1822; the fourth, four per cent. in or about the year 1825; the fifth, thirty per cent. in or about the year 1836; the sixth, twelve per cent. in or about the year 1838; and the seventh, five per cent. in or about the year 1839; in all 86 per cent. or thereabouts, on the amounts of the principal of the said debts. One of these debts, $24,156 $\frac{75}{100}$, or thereabouts, due to John B. Foussat, hereinbefore named, was an aggregate of losses on insurances, of which the several amounts had respectively been adjusted and ascertained before the making of the first of the said dividends. The said Foussat, who failed in business at about the time of the said Peisch's failure, appears to have regarded this debt of the Columbian Insurance Company as a fund appropriated for the payment of the judgment hereinbefore mentioned, at the suit of the United States, for duties for which the said Peisch was his surety as aforesaid. This judgment was for duties amounting to $8,621 $\frac{62}{100}$, payable on the 27th of April, 1815. The first of the said dividends paid by the said trustees of the Columbian Insurance Company, $4,831 $\frac{33}{100}$, after some deduction to the complainant unknown, produced $4,481 $\frac{30}{100}$, which, in or about May, 1816, was paid by the said Foussat or his agent to the United States, and allowed as a credit on account of the said judgment. Afterwards, on or about the fourth day of June, 1817, the said Foussat, being indebted to the said Daniel Man, the elder, in $13,302 $\frac{50}{100}$, and indebted in other amounts to him and others, whom he was unable to pay, by indenture dated the day and year last aforesaid, assigned all his estate, real and personal, to one Nartigne in trust, to convert the same into money, and apply the proceeds first in payment of the said debt

of $13,302 $\frac{50}{100}$, and afterwards among all the creditors of the said Foussat ratably. The said Foussat, on the same 4th day of June, 1817, presented his application to the Court of Common Pleas of Philadelphia County for, and on the 23d of the same month obtained from that court, his discharge as an insolvent debtor. After this, by some deed or writing said to be dated on or about the 22d day of December, in the year 1819, the particular contents of which are unknown to the complainant (who prays that the same may be set forth by the defendants in their answers, and prays to have the benefit of such answers and of the proofs on the subject, as if the matter of the said discovery and proofs had been herein specially averred), the said Foussat, as the complainant is informed and believes, made what purported to be an assignment of his remaining claim upon the said Columbian Insurance Company to the then Attorney of the United States for the Eastern District of Pennsylvania, in his official or individual character or capacity. Whether this transfer on its face was absolute or was declared to be in trust for the security of the said debt to the United States, the complainant does not know; but he believes and avers, without doubt, that it was received and held as a security for the said debt, and if of any validity as against the said prior assignments, was valid and effectual only as a security for the said debt. The second dividend, $2,115, after some deduction or deductions to the complainant unknown, produced $2,000, which was applied and allowed in or about January, 1820, as a further credit on account of the said debt to the United States. No further dividends or other moneys, derived from this source, were ever credited, in whole or in part, on account of this debt. On or about the 18th day of July, 1821, the said Attorney of the United States, in consideration of $1,287 $\frac{48}{100}$ received from George Griswold, who was then in some way to the complainant unknown, privy to the affairs of the said Columbian Insurance Company, and who, four or five years afterwards, by substitution, became one of the trustees of the said company, assigned and transferred to him the amount remaining due on the said insurances, or made and executed some writing, which purported to be an assignment or transfer to him of the same. Within less than a year after the payment of this amount by the said Griswold, he received, in the said third dividend, a precisely equal amount of $1,207 $\frac{83}{100}$ from the trustees of the said company. Neither amount of $1,207 $\frac{83}{100}$ was allowed by the United States as a credit upon the said judgment. The said Griswold afterwards received from the trustees of the said Columbian Insurance Company, and, under color and claim of a

right to convert the same to his own use, retained, and still retains the fourth, fifth, sixth, and seventh dividends aforesaid, together $12,560 38/100 over and above and after the reimbursement of the consideration of $1,207 83/100, paid or alleged to have been paid by him, as aforesaid, for the said transfer.

Until the year 1836 no claim on account of the debt so due to the United States as aforesaid was ever, so far as the complainant knows or believes, made upon the said assignees of Peisch, the surety. The funds of the said Peisch's estate which came to the hands of the said assignees were derived in part from an award of commissioners appointed by the United States to distribute money paid by the Government of France as an indemnity for spoliations of property of citizens of the United States. From the sum or sums primarily awarded under the said commission to these assignees, the Government of the United States, in August, 1836, deducted $5,707 42/100, the then estimated balance, with interest remaining due on the said judgment. The said assignees of Peisch, in reimbursement of this deduction from the said award, deducted an equal amount from their subsequent dividends to creditors recognized as aforesaid, as in the said first class under his assignment, who derived their claims through the said Foussat, including the said Daniel Man, the elder. The deduction thus made from the said dividends of the said Daniel Man, the elder, was to an amount approximating, as the complainant believes, $4,000; but to what precise amount he does not know. The said Daniel Man, the elder, then acquiesced in, and never afterwards objected to, this deduction. In the course of the said proceedings in the Court of Common Pleas of Philadelphia County, before the auditors, and afterwards before the judges, the said Daniel Man, the younger, not questioning the propriety of the deduction of the said amount of $5,707 42/100 ratably from the said dividends of parties claiming in right of the said Foussat, made an endeavor, which was ultimately unsuccessful, to obtain, as between him and another party claiming in right of the said Foussat, the correction of an alleged error of $535 05/100, or of some other comparatively small amount, which he alleged to have occurred in the former assessment of their contributory proportions of the said deduction. This was the same pretension of the said Daniel Man, the younger, hereinbefore mentioned, as a pretension to correct an alleged mistake in former accounts of a few hundred dollars in amount.

A controversy was afterwards moved by the said Daniel Man the younger, with the said George Griswold. It was contended that the said George Griswold had no right to retain for his own use the dividends received by him as aforesaid from the

estate of the Columbian Insurance Company, amounting to $13,-768 $\frac{21}{100}$, and that he was at all events accountable to the estate or assignee of the said Foussat for the last four of the said dividends, amounting together to $12,560 $\frac{38}{100}$. With a view to the prosecution of this claim against the said Griswold, the defendant, George Earp, the younger, through the procurement of the said Daniel Man, the younger, was, by the Court of Common Pleas of Philadelphia County, in the year 1851, substituted and appointed trustee of the said Foussat's assignment of the 4th of June, 1817, in place of the said Nartigne, who had never acted. The said George Earp, the younger, was, at the same time, by the same court, through the procurement of the said Daniel Man, the younger, appointed assignee in insolvency of the said Foussat in place of the trustees provisionally named at the date of his discharge, who had never acted in, or been qualified for, that office. After the death of the said Daniel Man, the elder, the grant to the defendant, Harvey Hand, of letters of administration of the estate of the said Foussat, who had died intestate, was, through the procurement of the said Daniel Man, the younger, obtained for a like purpose from the register of Philadelphia County, on the 12th day of March, 1852. The said George Griswold, who was a citizen of the State of New York, when temporarily sojourning in, or passing through the county of Philadelphia, was afterwards, by the procurement of the said Daniel Man, the younger, impleaded as defendant in six several actions, two of them in equity, by bill filed in the Supreme Court for the Eastern District of Pennsylvania, one at the suit of Harvey Hand, administrator as aforesaid, for the use of the said George Earp, Junior, assignee in trust, the other at the suit of the said George Earp, Junior, as assignee of the said Foussat, under the said proceedings in insolvency; the other four actions at law in the District Court for the city and county of Philadelphia, two at the suit of the said George Earp, Junior, and two at the suit of the said Hand, administrator, as aforesaid, for the use of the said George Earp, the younger. The six actions aforesaid were each for the recovery in whole or in part of the dividends received as aforesaid by the defendant Griswold from the Columbian Insurance Company. The plaintiffs being each of them citizens of the State of Pennsylvania, the said Griswold was, according to the statute of the United States in that behalf provided, entitled as a citizen of the State of New York, to remove, and he did accordingly remove, the said six actions to the Circuit Court of the United States for the Eastern District of Pennsylvania, where they are all, or were lately, pending and undetermined.

The defendants, Jordan and Paul, executors of the said Daniel Man, the younger, pretend that a recovery in all or any of the said six actions against the said George Griswold, or any voluntary or involuntary payment by him of the amount of the said dividends, or any part thereof, to them or to the said respective plaintiffs in these actions, or either, or some one or more of them, would enure, in whole or in part, for the use and benefit of the estate of the said Daniel Man, the younger, and not of the estate of the said Daniel Man, the elder. The said Jordan and Paul sometimes pretend that this results in some way, directly or indirectly, from some pretended connection of the subject of the said actions with the subject of the said writing of 19 March, 1845, purporting to be a transfer by the said Daniel Man, the elder, of his interest in the estate of the said Peisch. The complainant, relying under this head on the positions hereinbefore taken by him in respect to the said writing, further shows that the said writing, even were it otherwise effectual, according to its purport, as, for the reasons already given, it is not, would not have transferred the debt of the Columbian Insurance Company, to the said Foussat, or any subject of the said assignments of the said Foussat. The said Jordan and Paul at other times pretend that there was a transfer, or writing purporting to be a transfer, by the said Daniel Man, the elder, to the said Daniel Man, the younger, of this claim upon the said Griswold, or of the said Daniel Man, the elder's, interest in the said estate of Foussat. The complainant does not know or believe that any such pretended writing exists; but if one should be set up by the defendants or any of them, and should appear to have been signed or sealed by the said Daniel Man, the elder, the complainant avers that it is null and void, or ineffectual and inoperative as against him, for the same or like reasons as have hereinbefore been given to show the said writing of the 19th of March, 1845, to be invalid, ineffectual or inoperative; and prays that all the allegations of his bill in reference to the said writing of the 19th of March, 1845, may in that case be deemed and taken to have been made in respect to such other writing, as far as the same may be applied thereto, in like manner, and with the same effect as if the same had been here repeated, and at large set forth.

The complainant therefore prays the court's decree that the suits aforesaid, against the said Griswold, so far as title to the subjects thereof are or may be derivable in anywise through, from, or under the said Daniel Man, the elder, are, and shall be, prosecuted for the use, benefit, and advantage of his estate, and not of the estate of the said Daniel Man, the younger.

§ 53. Claim to $12,399 and 69 cts., including certificate for $10,000 U. S. stock, derived from Sibbald's estate; and history of controversies therewith, connected with incidental averments, &c.

Under another particular head, of the relief hereinafter prayed, the complainant shows to the court that, at the second session of the 24th Congress of the United States, among the petitions referred to the committee of claims of the House of Representatives, was a memorial of the said Charles F. Sibbald, setting forth that he had been a merchant in Philadelphia, and possessed of a large and valuable landed estate in East Florida, under a grant from the Spanish Government; that for the purpose of making the same productive and profitable, he had erected extensive steam mills thereon, and had also made extensive contracts for supplying timber of various kinds; that, while thus pursuing his business, and in the peaceable and successful use and enjoyment of his property, he was, in the year 1828, dispossessed of the same, by orders from the government of the United States, whose officers disputed the validity of his title under the said Spanish grant; that his plans were thereby frustrated, and that he was consequently overwhelmed in ruin; that he was thus wrongfully kept out of the use and possession of his estate for many years; and, finally, was restored to possession through a decision of the Supreme Court of the United States, in the year 1836. He claimed remuneration for his losses and damages, under several heads, to a very large amount. On the 3d of March, 1837, the last day of the session of this Congress, the said committee made a report upon this petition, and the numerous documents and proofs by which it had been accompanied, concluding with certain resolutions, which were adopted by the House of Representatives, referring the case to the Secretary of the Treasury, with authority to take testimony in order that the facts might be fully developed. In pursuance of these resolutions, testimony was taken at various places, in and out of the United States.

This, though a private claim upon the government, was a proceeding of unusual notoriety. The case was one of great public interest, as the honor of the government was at stake, in the opinion of many persons, by whom the subject had been more or less fully investigated. The said Sibbald was, without intermission, engaged in extensively circulating representations, which were very generally confided in, that under this claim upon the Government of the United States, he would unquestionably be allowed many hundred thousand dollars. Upon the strength of such representations, the sincerity of which was then regarded as unquestionable, he acquired extensive credit; and thus became very largely indebted to many persons.

To some of these creditors respectively he executed and delivered, for their security, several certificates of appropriation of his said claim; each certificate setting forth that for value received, he assigned and transferred to them respectively or order, an amount of money therein mentioned, to be paid by the treasury of the United States, with six per cent. interest thereon from date, out of any money which might thereafter be awarded by Congress as an indemnity for damages or injury done to his property in Florida, by persons acting under the authority of the Government of the United States, between the years 1828 and 1836; particulars of which injury were stated in the said memorial, report, and resolution. Fifty-one, or some other large number, of such certificates to the aggregate amount of $69,600, or some other large amount, were thus issued, numbered successively, and bearing date according to their priority of issue, beginning on the 11th of July, 1837, and ending on the 10th of September, 1839.

In the mean time, the testimony taken under the said resolution of the House of Representatives, as well on behalf of the said Sibbald, as on behalf of the United States in opposition to his claim, had been returned to the Treasury Department, with a voluminous and elaborate report made on or about the 3d day of January, 1838, by the attorney of the United States for the proper district, adverse to every item of the claim, after a separate investigation of each item. The testimony and this unfavorable report were returned to Congress on or about the 7th of February, 1838. They covered ground of such extent that a proper investigation of the case could not be made at that session of Congress. By a resolution of the House of Representatives, it was, therefore, on the 2d of July, 1838, referred to the solicitor and first and second comptrollers of the treasury. These officers, after an elaborate and careful investigation, united in the following year, in a report unfavorable to the claim. The claimant, nevertheless, with extraordinary perseverance, continued, from year to year, his efforts to obtain from Congress a recognition of the asserted merits of his claim; and at length, in April, 1842, obtained from the Committee of Claims of the House of Representatives a report giving a favorable outline of the facts of the case, expressing a general opinion in favor of its merits; and concluding with a recommendation that the damages which he had actually sustained by reason of the interference of the government by their agents with the use, possession, or enjoyment of his property in Florida, should be ascertained and paid to him. An act of Congress, passed for his relief, on the 23d of August, 1842, made it the duty of the third auditor of the treasury, under the direction of the

Attorney-General, to ascertain the actual damages which he had sustained by reason of such interference; and enacted that in case any sum should be found due to him, the Secretary of the Treasury should pay it to him out of any money in the treasury, not otherwise appropriated. Under instructions from the Attorney-General, dated in November, 1842, the said third auditor proceeded to investigate the case; which was under his consideration for nearly a year.

The said Daniel Man, the elder, had been a principal sharer in the succession of alternating hopes and disappointments, attendant upon the prosecution of the said Sibbald's claim upon the government. Of the certificates of appropriation thereof, so as aforesaid made and issued by the said Sibbald, the first four numbered in succession, 1 to 4, for together $10,000, with interest, dated the 11th and 18th of July, 1837, and two others numbered 17 and 18, for, together, $3,000, with interest, dated the 8th of August, 1837, had, with other such certificates of intermediate and subsequent date, been delivered by the said Sibbald, at, or about their respective dates, to one Matthew C. Ralston, since deceased. These transfers were made to the said Ralston, either in payment of, or as an assignable security for advances by him of money to the said Sibbald, or were made with an authority to the said Ralston to raise money on them for his own use, or for the use of the said Sibbald; or were made partly in the one and partly in the other of these modes. The said Ralston, in which mode soever he received them, had the right of disposing of them, as he afterwards transferred them, to the said Daniel Man, the elder.

In or after the summer of the year 1837, there was a negotiation between the said Ralston and the said Daniel Man, the elder, for an advance by the said Man, to the said Ralston, of $13,000, or some other large amount of money, through a discount or discounts of his promissory notes, on the security of a transfer or transfers of the said certificates of appropriation, numbered as aforesaid, 1, 2, 3, 4, 17, 18, for, together, that sum with interest. The said Sibbald intervened in this negotiation, on his own behalf, or on behalf of the said Ralston, or on behalf of both of them; exhibiting or transmitting to the said Daniel Man, the elder, one or more printed publications, in which favorable views of the said claim on the United States were presented in an encouraging manner, and assuring him that the said certificates would certainly be paid. On the faith of the evidence thus exhibited, and of those representations and assurances, or under some other influence moving him in this behalf, the said Daniel Man, the elder, discounted promissory notes of the said Ralston, to the amount of $13,000, on the

security of the said six certificates of appropriation, together of an equal amount, which were thereupon indorsed and delivered, and, by one or more acts, transferred to him accordingly.

The complainant has been informed and believes that these discounts originated in the year 1837, and were from time to time renewed at the maturity of successive notes of the said Ralston. Upon every such renewal, until, and including, renewals made in the spring and summer of 1839, the said Ralston had, as the complainant is informed and believes, made transfers to the said Man of the said Sibbald's certificates of appropriation, Numbers 1 to 4, and 17 and 18 aforesaid; which successive transfers were renewed, and the former transfer destroyed, on each successive renewal of the said notes. On or about the 14th day of October, 1839, the said Ralston having become insolvent, made an assignment of all his estate, property, and effects, to one George Vaux Bacon, in trust for the benefit of his, the said Ralston's creditors, in manner therein mentioned. The transfers of the said certificates of appropriation, then in the hands of the said Daniel Man, the elder, were consequently not renewed or given up on the next subsequent renewal of the notes for which he held them as a security; nor were the notes which he then held, given up on such renewal.

The said Daniel Man, the elder, was, in this or in some other manner, the holder of three several promissory notes of the said Ralston, payable to his own order, and by him indorsed; two dated 24th May, 1839, each payable in six months, one for $4,000, the other for $6,000, and the third note, dated 22d July, 1839, for $3,000, payable in seven months; the said note for $4,000, dated 24th May, and due 27th November, 1839, secured by a transfer, dated on the day of the date of the said note to the said Daniel Man, the elder, of the said certificates of appropriation, Numbers 1 and 2, for, together, $4,000; the said note for $6,000, also dated 24th May, and due 27th November, 1839, by a like transfer of the same date of the said certificates of appropriation, Numbers 3 and 4, for, together, $6,000; and the said note for $3,000, dated 22d July, 1839, and due 25th February, 1840, by a like transfer of the date of the said note of the said certificates of appropriation, Numbers 17 and 18, for, together, $3,000; in all, notes for $13,000, secured, severally, by the said Sibbald's respective certificates of appropriation for equal amounts.

In or before the spring of the year 1843, notwithstanding the hope which had been temporarily held out by the said act of Congress of August, 1842, it began to be apprehended at Washington and elsewhere, that the said Sibbald, under his

claim aforesaid upon the government, would probably not recover an award of sufficient magnitude to pay more than a fourth or a third part or some other small proportion of the aggregate amount of all the certificates of appropriation which he had issued as aforesaid, on the credit of this dependency. The existence of such an apprehension was communicated by another holder of such certificates, or in some other manner, to the said Daniel Man, the elder. The said Charles F. Sibbald, who had always theretofore encouraged the said Daniel Man, the elder, to expect, without any doubt, payment of the full amount of the said Ralston's debt to him, with its interest, out of the certificates of appropriation so transferred to him as aforesaid, now changed his tone, and set up, quite unexpectedly, an objection to the said Ralston's right to receive the full amount specified in the said certificates; alleging that part only thereof was due; and disputing the title of the said Man, in right of the said Ralston, to the excess beyond such part thereof. The said Sibbald moreover set up under the said act of Congress, a pretext of a right or power in himself alone to receive directly from the treasury of the United States, the whole amount of any recovery under the said act without regard to his former appropriations thereof aforesaid; and threatened that he would avail himself of such pretended right or power, unless the abatement on which he thus insisted were allowed him as a deduction from the amount of the said certificates, or some other unreasonable pretension were acquiesced in. The said Sibbald, on like grounds, or on other grounds, disputed the rights of the other holders of his said certificates of appropriation, or of some of them, to the whole or part, in each case, of the respective amounts for which their certificates were issued. On behalf of some of the holders of the said certificates, including the said Daniel Man, the elder, copies of them had been sent to the secretary, or to the said third auditor of the treasury; to whom application was made for the recognition of their rights in the expected award under the said appropriations in their favor, made by the said certificates. The said third auditor, or secretary, or other officer of the treasury department, in reply to these applications, informed the said parties that the officers of that department would not have the right or power to recognize an ownership of, or interest in the said fund as vested under the said certificates of appropriation; but that the amount or amounts, if any, that might be awarded under the said act of Congress, would, in obedience to the letter of its enactment, be paid to the said Sibbald, or as he might, since the passage of the said act, have directed; unless the said Secretary of the Treasury should be otherwise ordered or en-

joined under a decree of the Circuit Court of the United States for the District of Columbia, or the right should be decided by some other court of competent jurisdiction.

The said Sibbald, in part execution of the said threat, and in order to embarrass the said Daniel Man, the elder, in the assertion of his right of priority aforesaid, or with some other motive, made in the month of April, 1843, a deed, purporting to appropriate eighty-five thousand dollars of moneys to be awarded to him, under the said act of Congress, to Joseph R. Ingersoll and Thomas Dunlap, in trust, out of the net proceeds of this amount of $85,000 to pay such sums as might be ascertained to be actually due on the said certificates of appropriation previously issued as aforesaid by the said Sibbald to the said nominal amount of $69,600, with interest. If this deed took effect according to its literal purport, an apprehension was entertained by the said Daniel Man, the elder, or by the said Daniel Man, the younger, as his agent acting on his behalf, that it would cause an equal ratable distribution of the net proceeds of any award that might be made under the said act of Congress among all the holders of the said certificates of appropriation to the amount of $69,600 aforesaid without regard to their order of priority of issue. The said Ingersoll and Dunlap insisted on this view of the subject. Under the advice of counsel, learned in the law, that the said certificates had been from the first, transfers and appropriations taking effect in the order of their priority of date and issue, a bill in equity was drafted and engrossed on behalf of the said Daniel Man, the elder, as complainant, to be filed in the Circuit Court of the United States for the District of Columbia, wherein the said Ingersoll and Dunlap, trustees as aforesaid, the said George Vaux Bacon, and the said Secretary of the Treasury were named as defendants; praying that the said Daniel Man, the elder, might, out of the anticipated award, receive payment of the amount of $13,000, with interest due to him as aforesaid on the notes of the said Ralston, and praying an injunction against the Secretary of the Treasury, to restrain him from paying to the said Ingersoll and Dunlap, or Sibbald, and against the said Ingersoll, Dunlap, and Sibbald, to restrain them from receiving any money under any such award until after such payments to the said Daniel Man, the elder.

This bill in equity was prepared with the aid and co-operation of the said Daniel Man, the younger, acting on behalf of the said Daniel Man, the elder. It was transmitted to counsel at Washington in the District of Columbia, to be made use of on behalf of the said Daniel Man, the elder, as occasion might require. How far it was prosecuted, or whether it was in fact

ever filed, the complainant does not know; and, by reason of the occurrences hereinafter set forth, is advised is not material.

The said third auditor of the treasury, at the close of the month of October, 1843, made his report to the Attorney-General, disallowing each and every item of the said Sibbald's claim. This report was thereupon revised by the Attorney-General, whose opinion and ultimate instructions were not communicated to the said third auditor until the close of September, 1844. The said items were nine in number. The Attorney-General adopted the views of the said auditor as to eight of them. These were, therefore, deemed inadmissible, and were wholly rejected. As to the remaining item, the 5th of the series, the said Attorney-General was of opinion that the claimant had a just demand against the United States to the extent of such injury as had resulted from an interference by an agent of the United States with the execution of certain contracts made in the year 1827 and 1828 by the said Sibbald, with one Samuel Grice for the sale to him of live oak timber to be cut from the said land in East Florida. The Attorney-General, in making this opinion known to the said auditor, gave him definite instructions, under which the said auditor, on the 28th of October, 1844, made an award, allowing to the said Sibbald, principal and interest, in the whole $\$27,132\frac{64}{100}$; of which $\$8,660\frac{30}{100}$ was the amount, including interest, of his liability to the said Grice for the profits which the said Grice would have made on the said contract if its execution had not been interrupted and prevented; and the remaining $\$18,472\frac{33}{100}$ was the amount, including interest, of the profits which the said Sibbald would have made if the said contracts with Grice had been performed. This award was reported to the Secretary of the Treasury by the said Attorney-General on the 1st of November, 1844.

In the meantime, other claims to the fund which was the subject of this award, had been presented, as the said Attorney-General made known to the said Secretary of the Treasury in the report last aforesaid. The said Grice claimed the sum of $\$8,660\frac{30}{100}$ aforesaid as his own money; alleging that as to this amount, the said Sibbald was a mere trustee for his use. The trustee, under a voluntary deed, by which the said Sibbald had, on the 7th of September, 1830, assigned all his estate for the benefit of his creditors who should release him within a prescribed period, claimed the whole fund on behalf of creditors who had so released him; alleging that the said claim of the United States had passed under this assignment. The said Sibbald, in the winter succeeding the making of this voluntary assignment, had moreover been discharged as an insolvent debtor by the Court of Common Pleas of Philadelphia County.

The fund was claimed on behalf of his general creditors of that date by persons who alleged themselves to be assignees under the proceedings which had resulted in this discharge. The Secretary of the Treasury refusing to decide between the conflicting claimants, and a litigation in the District of Columbia appearing to be inevitable, new arrangements were made by the said Daniel Man, the younger, on behalf of the said Daniel Man, the elder, with counsel in the said district.

In the Circuit Court of the United States for the said district, in or about the month of December, 1844, a suit in equity was instituted on behalf of the said Grice against the said Dunlap and Ingersoll, Daniel Man, the elder, the trustee under the said assignment of 7th September, 1830, and the said Sibbald, defendants. In this case, on or about the 29th of November, 1845, there was a decree for the said $8,660, with costs, in favor of the complainant Grice, who received the same.

In another case, in the same court in equity, instituted at about the same time, the said Dunlap and Ingersoll were the complainants in a bill, partly in the nature of a bill of interpleader, and the said Grice, Sibbald, Man, and the Secretary of the Treasury, defendants. The object of this bill was to settle the title to the fund among the conflicting claimants, and obtain the relief to which the beneficiaries, for whom the complainants alleged themselves to be trustees under the said deed of April, 1843, might be entitled. The bill was afterwards amended so as to make the trustee under the said assignment of Sibbald, of the 7th of September, 1830, a party defendant. The defendants answered severally; and there were afterwards such proceedings in the case that it would have been ready for a decree, if the court had not been of opinion that the assignees of the said Sibbald, under the said proceedings in insolvency, should be made parties. No persons had ever given the security required by law, in order to invest them with the legal character of assignees in trust under those proceedings. The parties who had been presented in that character, therefore, would not have been recognized as legally invested with it; but the court was not prevented from recognizing the trust from this want of competent trustees to execute it. From this want of parties, or for some other reason, there was no decree in the cause.

By specific charges, of the nature of particular liens on the award, allowed from time to time and paid out of the treasury of the United States, the fund awarded was reduced to $12,658 $\frac{75}{100}$. The said Sibbald insisted that this remnant of the fund was reducible still further by reason of liabilities for expenses incurred and charges in the prosecution of the said claim. He also demanded for himself any ultimate balance that might

remain, or the whole $12,658\frac{75}{100}$, if not further reduced, on the ground that he had been personally and alone the active and unsupported solicitor for the claim on the United States; and had, in that capacity, disbursed large amounts of money, and incurred liabilities for further amounts, which were still due and unpaid, independently of his own compensation for services during so many years. The complainant believes that, in the year 1845, it was the opinion of the said Daniel Man, the younger, and likewise of the said Daniel Man, the elder, so far as he may have been able, if he was at all able, to bestow thought upon the subject, that the said remnant of $12,658\frac{75}{100}$ would be absorbed in charges, etc., as the other part of the fund had been consumed. The complainant, indeed, himself believes, from the best information he can obtain, that this would have eventually been the case, if there had not, some time afterwards, been an unexpected further award in favor of the said Sibbald, which will be mentioned below.

The prosecution by the several parties litigant of their respective claims to this remnant of money, which was thus of precarious and uncertain amount, was for a long time, as if by common consent, intermitted or abandoned. From some date, not certainly known to the complainant, but which he prays may be ascertained, if material, by the answers and proofs in the cause, the said Daniel Man, the elder, in weariness, disgust, and despondency, had ceased to look upon his interest in this fund as an available dependency; and, so far as was possible, had left the care and conduct of his claim upon the same to the said Daniel Man, the younger, under the agency and confidence aforesaid.

Notwithstanding the supposed final action aforesaid of the Government of the United States upon the claim of the said Sibbald, under the said act of Congress of 23d August, 1842, his energy and perseverance afterwards obtained a report of the Judiciary Committee of the Senate, submitting a joint resolution of the Senate and House of Representatives, which was passed and approved by the President, on the 10th day of August, in the year 1846, purporting to be "A resolution declaratory of the act passed 23d August, 1842, entitled, 'An act for the relief of Charles F. Sibbald.'" It was thereby resolved: "That in carrying into effect" the said act, the Secretary of the Treasury was authorized and required to audit and liquidate the claims and demands of the said Sibbald, upon principles of law and equity, in such manner as to secure to him an indemnification for the injuries and damages sustained by him, occasioned by the interference of the agents of the government with his property and rights, and on such proofs as are usually received in

similar cases by the accounting officers of the government. Under this resolution, the said Ingersoll and Dunlap, claiming, as trustees as aforesaid, to represent the holders of the said certificates of appropriation, renewed their said claim before the Secretary of the Treasury. After an investigation and report by the first comptroller, revised by the Secretary of the Treasury, there was, on the 3d of July, 1847, an award of the said secretary, allowing the said Sibbald $26,029 $\frac{70}{100}$; which, with the said amount theretofore awarded to him under the said act of 23d August, 1842, was thereby declared to be "in full and final satisfaction of all claims whatsoever of the said Sibbald against the United States, under the said acts of August 23, 1842, and the said resolution of August 10, 1846, or either or both of them."

By an act of Congress of the 29th of July, 1846, it had, however, been enacted, that whenever a claim on the United States should thereafter have been allowed by a resolution or act of Congress, and thereby directed to be paid, the money should not, nor any part thereof, be paid to any person or persons other than the claimant or claimants, his or their executor or executors, administrator or administrators, unless such person or persons should produce to the proper disbursing officer a warrant of attorney, executed in a prescribed form, by such claimant or claimants, executor or executors, administrator or administrators, after the enactment of the resolution or act allowing the claim, and attested and verified in a prescribed mode. The said Secretary of the Treasury, in the said award of 3d June, 1847, therefore directed payment of the sum of $26,029 $\frac{70}{100}$, thereby awarded, to be made to the said Sibbald, or his attorney specially authorized by him to receive the same, or any part thereof; adding the words, "no directions are now given as to the mode of paying the balance still remaining in the treasury of the sum heretofore awarded said Sibbald, under the act of 23d August, 1842;" meaning the said $12,658 $\frac{75}{100}$, remaining from the former award, and not affected by this enactment of 29th July, 1846.

On the 4th of June, 1847, the day next following that of the date of the final award aforesaid, the said Ingersoll and Dunlap, claiming as trustees aforesaid, again presented to the Secretary of the Treasury their claim to receive the said $26,029 $\frac{70}{100}$, with a remonstrance against any other disposition being made of it. Nevertheless, under the said act of Congress of 29th July, 1846, the said Secretary of the Treasury, before the end of the said month of June, 1847, paid the same to persons whom the said Sibbald authorized to receive the same. No part of this last award was ever received by the trustee under the said Sibbald's

assignment of September, 1830; or his assignees in insolvency; or by the said Ingersoll and Dunlap, trustees; or by the said Daniel Man, the elder; or by any other holder of any of the said certificates of appropriation.

The payment of this large amount of money to the said Sibbald appeared to remove the ground on which he had previously claimed to receive the said remnant, $12,658\frac{75}{100}$, of the former award, still in the treasury of the United States. He still, however, opposed its receipt by the said Ingersoll and Dunlap, or by the said Daniel Man, the elder, if any independent claim on his behalf was renewed. The said Sibbald now claimed to receive this $12,658\frac{75}{100}$, not in his own right, as before, but as agent of the said trustee, under his assignment of September, 1830, under a power of attorney from the said trustee.

Thus this remnant, $12,658\frac{75}{100}$, of the said former award, still in the treasury of the United States, was the only fund arising from the whole of Sibbald's claims upon the United States, on which the said Daniel Man, the elder, could practically rely for the payment of any part of the said certificates of appropriation which he held. He had long since relinquished the care and management of his interest in the said claim on Sibbald to the said Daniel Man, the younger, who, for some time past, had not, so far as the complainant is aware, exercised, and did not then exercise, any thought or care of the subject. They had both probably dismissed it from their minds, regarding it as lost. The controversy was by this time regarded, at Washington, as one between the trustee, under Sibbald's said assignment of September, 1830, and the said Ingersoll and Dunlap, representing the common interest of all the holders of the said certificates of appropriation, without any reference to the particular claim of the said Daniel Man, the elder, to a preference, in consequence of the priority of his certificates, Nos. 1 to 4, aforesaid. This matter, so far as the Treasury Department was concerned, was not disposed of until the 3d of March, 1849, when the Comptroller of the Treasury decided and certified to the Register of the Treasury that the said balance, $12,658\frac{75}{100}$, should be paid to the said Ingersoll and Dunlap, trustees, as aforesaid, and the Secretary of the Treasury signed a warrant in their favor, under which they received the same.

The remnant of the said fund was thus transferred from Washington to Philadelphia. As none of the controversies as to its ownership had been decided, fresh litigations were in prospect. They, in due course, ensued.

The fund thus transferred from the treasury of the United States to the hands of the said Ingersoll and Dunlap, was by them deposited, to their joint credit, in bank, on or about the

12th of March, 1849; and was, on or about the 21st of the next succeeding month, invested by them in funded debt of the United States, bearing interest, half-yearly, at the rate of 6 per cent. per annum, redeemable after the last day of December, 1867, as authorized by act of Congress of the 28th of January, 1847.

On or about the 10th of the said month of March, 1849, the said Sibbald, as attorney of the said trustee, under his assignment of September, 1830, cautioned the said Ingersoll and Dunlap against disbursing the said fund, and gave them notice that he meant to bring an action at law to recover it from them. Such an action was accordingly brought against them at the suit of the said Sibbald, for the use of the said assignee, in the District Court for the City and County of Philadelphia, of the Term of March, 1849, Number 698. On or about the 13th of March, 1849, the said Ingersoll and Dunlap transmitted to the said Daniel Man, the elder, the letter of that date, of which, as part of this bill, a true copy is hereto annexed, informing him that, as it was out of their power to settle the conflicting claims, they proposed to file a trust account in the Court of Common Pleas of Philadelphia County, to afford all parties the opportunity to make good their claims upon the fund.

Their account was filed in this court accordingly, on the 29th of the said month of March, 1849. After advertisement for thirty days, according to the statutes and rules of court in that behalf provided, the said court, on the 30th of April, 1849, appointed an auditor to audit, settle, and adjust the same, and make distribution of the funds in the hands of the said Ingersoll and Dunlap. The said auditor, after the notice by advertisement usual in such cases, first met the parties in interest on or about the 14th day of May, 1849.

Two days or thereabout previously, that is to say, on or about the 12th day of May, in the year 1849, the said Daniel Man, the elder, then eighty-seven years of age, subscribed his name opposite to the seal at foot of the writing of that date, of which a copy is hereto annexed as part of this bill, purporting to be a transfer for the consideration of natural affection and a nominal pecuniary consideration of all his right, title, interest, claims, demands, and dividends, due or becoming due to him in any manner, from the estate of the said Matthew C. Ralston, then deceased, from Charles F. Sibbald, or from the trust estate created by the said Sibbald, or from his trustees therein named; and setting forth that he, the said Daniel Man, the elder, therewith delivered over to the said Daniel Man, the younger, all promissory notes and certificates, or evidences of debt drawn or indorsed by the said Matthew C. Ralston and Charles F. Sibbald,

or either of them, and theretofore owned and held by him, the said Daniel Man, the elder.

The complainant believes that the said Daniel Man, the elder, never knew that there had been a second award in favor of the said Sibbald, or that the remnant aforesaid, of the former award had been transferred to Philadelphia from Washington, or was in the hands of the said Ingersoll and Dunlap, or that they had accounted; or that any account relating to the said fund had been filed or referred, or that the subject was in any manner before an auditor, or was to come before such an officer; and believes that he was not aware at all at the time of the making of this pretended deed of the true state or condition of his interest in this dependency. The complainant believes and avers that the said Daniel Man, the elder, was then incapable of acquiring an adequate knowledge on the subject; and that if he was capable of acquiring it, the truth was in all these respects, fraudulently withheld and concealed from him by the said Daniel Man, the younger, who, in the course of his agency aforesaid, had acquired, and who therefore possessed ample knowledge of the subject in every respect.

The complainant moreover says, that the said Daniel Man, the elder, through blindness, deafness, and decay of mental and bodily faculties, was at the time of the making of the said pretended deed of 12 May, 1849, incapable of acquiring a competent knowledge of its purport or effect; or, if capable of acquiring such knowledge, did not in fact, acquire or possess it; and signed the said deed without any knowledge, or adequate knowledge, of its purport or effect. The only subscribing witness to the execution of this pretended deed was the defendant, Robert Hays, who, since the death of both the said Daniel Man, the elder, and Daniel Man, the younger, has been appointed as aforesaid, guardian of the said Daniel Man King. The present privity in interest of the said Hays, through the said guardianship, has induced the complainant to cause inquiry to be made of him as to the circumstances of its execution. The result of this inquiry has been the receipt of information by the complainant, and he avers the truth to have been, that the said Hays was not aware of the nature, contents, or effect of the said writing; and that neither its nature, contents, nor effect was made known in any manner to him, or in his presence or hearing, or within his knowledge or belief, to the said Daniel Man, the elder. The said pretended deed was wholly written by the said Daniel Man, the younger, in a hand too fine to have been readable by the said Daniel Man, the elder; and nothing was done or said in explanation of its contents, purport, or effect.

The complainant moreover avers, that if the said Daniel Man,

the elder, was in anywise cognizant of the purport or effect of the said pretended deed, or cognizant of the true state of the said subject-matter thereof, then he made and executed the same under a secret confidence and resulting trust for his own use and benefit, and under representations, assurances, and declarations of the said Daniel Man, the younger, that it should so enure.

As to this pretended deed, the complainant, referring to the said fiduciary relations between the said Daniel Man, the elder, and Daniel Man, the younger, avers that they were abused in obtaining it, and that undue advantage was taken by the said Daniel Man, the younger, of the trust reposed in him by the said Daniel Man, the elder, if it was obtained otherwise than in trust and confidence for his use. As to this pretended deed, the complainant repeats under this head, all that has been said above as to the said pretended deed of transfer of the said Daniel Man, the elder's, claim upon Peisch's estate; and adds, that at the long subsequent date of the pretended deed, here immediately in question, the said Daniel Man, the elder, was still more deaf and blind, and more feeble in mind and body than at the execution of the said pretended deed of transfer of his interest in Peisch's estate. The fiduciary relation between them, however, fully subsisting at the execution of the former pretended deed, was moreover, at the date of the pretended deed now in question, more clearly defined in the said powers of attorney of 1847 and 1848. The complainant is advised, and submits to the court, that, as these relations were thereby defined, the said Daniel Man, the younger, independently of the then bodily and mental condition of the said Daniel Man, the elder, would have been, in equity and good conscience, incapable, and, with reference to his then bodily and mental condition aforesaid, was the more incapable of receiving and retaining otherwise than for his use and benefit, a gift or transfer made as this pretended deed of 12 May, 1849, purported to have been made, without adequate consideration, and without mutuality of benefit and advantage. There were, in the case of this pretended deed, no circumstances to rebut the legal and equitable presumption of undue influence, fraudulent breach of confidence, and unfair advantage taken, arising from the character of the act, the relations of the parties to each other, and the mental and bodily condition of the party of whose infirmities advantage was thus taken.

If the said Daniel Man, the elder, when he subscribed the said pretended deed of 12 May, 1849, was mentally conscious of its purport, the circumstances under which it was executed, were, as the complainant avers, of such a character as to pre-

vent it from taking effect according to such purport. If thus conscious of its purport, he must likewise have then retained a recollection of the prior, and possessed a knowledge of the pending litigations, by which he had been, and still was, harassed as aforesaid. The said proceedings before auditors, in the case of Piesch's estate, were then in the fourth year of their pendency, with no prospect of a speedy termination. He had been kept in total ignorance of the said payment by Ridgway's estate, in January, 1848, of the balance due upon the result of the transactions connected with the sheriff's sale, first above-mentioned, of the real estate of the said Dyott. The actual aspect of these litigated dependencies, was as discouraging as their retrospect was gloomy. When his mental and bodily faculties were less infirm, he had, in disgust and dismay, abandoned these proceedings to the care of the said Daniel Man, the younger, in whom he still placed a confidence which he did not know or suspect to have been abused. He therefore, if otherwise in the possession of adequate mental faculties for comprehending the purport of the said subsequent pretended deed, would, under the said monomaniac abhorrence of litigation and its incidents, have executed the said deed, rather than have encountered the prospective litigations with other claimants upon the said fund in the hands of the said Ingersoll and Dunlap. The complainant, therefore, without believing or admitting that the said Daniel Man, the elder, knew the then situation of the said fund, or understood the purport or apparent effect of the said pretended deed of 12 May, 1849, avers, that if he understood the one, or knew the other, he executed the said deed under the morbid influence aforesaid, of which undue advantage was taken by the said Daniel Man, the younger, who, under the guise and pretext of a secret trust for the said Daniel Man, the elder, fraudulently and deceptively abused his confidence aforesaid, if the said deed was received with intent to take advantage of it as an absolute transfer for the beneficial use of himself, the said Daniel Man, the younger.

The complainant here further shows to the court that at the date of the said pretended deed of 12 May, 1849, the said Daniel Man, the elder, was the holder of other promissory notes of the said Matthew C. Ralston, not hereinbefore mentioned, for the payment of together $\$16{,}084\frac{97}{100}$, or some other large sum of money, which, according to the purport and apparent effect of this pretended deed, were thereby transferred to the said Daniel Man, the younger, in like manner and form, as the notes of the said Ralston for together $13,000, hereinbefore mentioned, were, according to its purport and apparent effect transferred. The said notes for together $\$16{,}084\frac{97}{100}$, were nevertheless all

returned by the said Daniel Man, the younger, as executor of the said Daniel Man, the elder, in the said inventory of the estate of the said Daniel Man, the elder, as embraced in a class of items "considered to be of doubtful and uncertain value;" from which, if the executor should recover anything, he was to charge himself therewith. The said pretended deed having purported, in express terms, to transfer all the said Daniel Man, the elder's claims and demands on the said Ralston's estate, and all promissory notes drawn or indorsed by the said Ralston, theretofore held by the said Daniel Man, the elder, and the said Daniel Man, the younger, having thus in the said inventory admitted, that such notes of the said Ralston as were not involved in the said pending and prospective litigation were not embraced in the said terms, the complainant asks the benefit of this admission of the said Daniel Man, the younger, as giving additional strength to the allegation that, the purpose of the said pretended deed, if any purpose is attributable to it, was merely to relieve and disembarrass the said Daniel Man, the elder, in the feebleness of old age, from the cares and burdens of the said pending and anticipated litigations.

The complainant avers that the said Daniel Man, the elder, if, and so far as, cognizant of what he was doing, believed either that the said writing was received under a secret resulting trust and confidence for his own use, or was not, in form or effect, the absolute transfer which it purported to be; and avers that the said Daniel Man, the younger, in order to procure the said Daniel Man, the elder's, signature of the said pretended deed, and obtain the formality of its supposed or alleged delivery, did, before and at the time of procuring and obtaining the same, use various artful contrivances, devices, and manœuvres, and make many false and fraudulent pretences and misrepresentations, by acts and words, to induce in his mind a belief that it was not, in form, purport, intent, or effect, an absolute transfer, or that it was received in confidence under the secret resulting trust aforesaid, and, in so doing, exaggerated the prospective difficulties and responsibilities of the future litigations and their incidents and consequences.

The said Daniel Man, the younger, before the auditor so appointed on the account of the said Ingersoll and Dunlap, produced the said pretended deed of 12th May, 1849, in evidence, and, under the said certificates of appropriation, numbered 1 to 4, claimed the whole fund in the hands of the said accountants. This, as an exclusive claim, was contested by holders of other like certificates of appropriation, subsequently issued, on whose behalf it was contended that the said fund should be distributed ratably among all the holders of such certificates. The trustee

of the said assignment of September, 1830, also claimed the whole fund, under what he alleged to be his prior title. The said Sibbald's general creditors also claimed it under the subsequent assignment, which took effect, as was alleged, on his discharge as an insolvent debtor. The case was pending for a year or more before the said auditor, whose report awarded the whole fund, after deducting charges, to the trustee under the said assignment of September, 1830. On exceptions, this report was confirmed by the said Court of Common Pleas. Appeals were thereupon taken to the Supreme Court for the Eastern District of Pennsylvania.

These appeals were pending in the said Supreme Court at the death of the said Daniel Man, the elder. They were argued in the spring of the year 1852, after the complainant had left the United States for Europe, as aforesaid. This court, in May, 1852, reversed the decree of the said Court of Common Pleas, rejecting the claim of the said assignee in whose favor that court had decided, and decreeing that the said certificates of appropriation, numbered 1 to 4, should be first paid out of the fund in the hands of the accountants, referring the liquidation of the amount due thereon to the prothonotary. According to the prothonotary's report, which, on the 30th day of June, 1852, was confirmed by the court, the net amount or value of the said fund, after adding all dividends accrued on the said investment, in funded debt of the United States, and deducting all charges of every kind incurred since its receipt from the treasury of the United States, was $\$12{,}399\frac{69}{100}$, composed of $\$574\frac{69}{100}$ in cash, and a certificate for $10,000 of the said six per cent. funded debt of the United States; which certificate, at the then market price of one dollar and $18\frac{1}{4}$ cents for each dollar thereof, was of the value of $11,825. On the said 30th day of June, 1852, the said Daniel Man, the younger, received from the said accountants, Ingersoll and Dunlap, in discharge and satisfaction of the said decree, the said amount of $\$12{,}399\frac{69}{100}$, whereof $\$574\frac{69}{100}$ was paid him in cash, and $11,825 in a transfer by them to him of the said certificate for $10,000 of the said six per cent. funded debt of the United States, for which a new certificate, No. 1,344, was thereupon, or not long afterwards, issued to him by the United States.

This is the same certificate which, in the said inventory of the pretended personal estate of the said Daniel Man, the younger, filed, as aforesaid, by the said Jordan and Paul, executors, is described as "$10,000 U. S. Loan, 6 per ct., 1867, valued "at $11,800." These defendants wrongfully claim it as having been a part of the estate of the said Daniel Man, the younger. The complainant prays that it may be ascertained and declared

by the decree of the court to have been specifically a part of the estate of the said Daniel Man, the elder, and that the same, or any proceeds or substituted investments or securities into which it shall or may have been changed since the death of the said Daniel Man, the younger, may be accounted for accordingly in the accounts to be taken as is hereinafter prayed, and that the estate of the said Daniel Man, the younger, may likewise be charged in favor of the estate of the said Daniel Man, the elder, with the said cash amount of $\$574\frac{69}{100}$, or such other amount of the said $\$12{,}399\frac{67}{100}$ as may not be covered by the specific security of the said certificate of funded debt, or its proceeds or substitute or substitutes aforesaid.

§ 54. Claim to proceeds of real estate sold for $13,500 to Vansyckle and to unsold real estate, which had been included with it in a pretended conveyance of 7th June, 1849, by D. Man, Senior, to D. Man, Jr. How the signature of D. Man, Senior, to his pretended will was obtained. Reference in this will to prior gifts to D. Man, Jr., and in D. Man, Jr.'s, own will and codicils to this pretended deed; with incidental averments, &c.

The complainant under another head of the particular relief, hereinafter prayed, shows to the court that the principal items of unimproved real estate of the said Daniel Man, the elder, in the city and county of Philadelphia, consisted of two lots of ground on the east side of Schuylkill Second Street, one of them between Walnut and Spruce Streets, in the said city, containing in front on the said Second Street, one hundred and eleven feet, and in depth of that width two hundred and forty-seven feet; the other at the corner of Walnut Street, containing on Schuylkill Second Street sixty feet, and on the south side of Walnut Street two hundred and forty-seven feet; two lots of ground, in the District of Spring Garden, in the county of Philadelphia, one of them containing on the east side of Broad Street 180 feet 2 inches, on the south side of Washington Street 242 feet 2 inches, and on the north side of Green Street 308 feet $1\frac{3}{4}$ inches; the other being a triangular lot adjoining the same, and a lot of ground in the said city, on the north side of Mulberry Street, 99 feet westward from Schuylkill Eighth Street, containing in front on Mulberry Street $49\frac{1}{2}$ feet, and in depth 288 feet to Cherry Street. The care and management of the said unimproved lots in the city and county of Philadelphia were, in his old age, an intolerable burden, annoyance, and vexation to him. Some trifling trespass or trespasses having been committed on one or more of the said lots, he was panic-stricken and afflicted under the morbid influence of an illusory impression that he must forsake, and, in the end, lose his property, by letting his rights be violated with impunity, or incur, what he fancied would be the greatest evil, of an almost endless and uncertain series of litigations for its

protection and defence. Under the pressure of this morbid apprehension, or of some other illusion, or groundless and imaginary fear, he precipitately, and without any of his former providence and circumspection, endeavored to force the sale of portions, or the whole of these unimproved lots of ground, declaring himself willing to take less than half the value, or some grossly inadequate price or prices for the same, or for some one or more of them, and otherwise depreciating them. These groundless apprehensions were artfully excited, or the primary impression of their supposed causes upon his mind craftily increased by the said Daniel Man, the younger, who, by falsely and fraudulently misrepresenting their subjects, and exaggerating their causes, presented them in their most alarming aspect, and thus practised upon the mental infirmities and moral weaknesses of the said Daniel Man, the elder, in order the more surely to carry into effect an artful design by this time matured, of monopolizing the control of his property and ultimately depriving him of all or of as much as possible of it, and converting it wrongfully to his the said Daniel Man, the younger's own use.

The experiment of obtaining a transfer on its face absolute, made by the said Daniel Man, the younger, as aforesaid, in the said case of Peisch's estate, in March, 1845, having been successfully repeated by him, as aforesaid, in May, 1849, in the case of the claim on Ralston, secured by Sibbald's certificates of appropriation, he became, in the prosecution of the said evil designs, encouraged to take further undue advantage of the facility with which, by abuse of the fiduciary relations between himself and the said Daniel Man, the elder, he could, at pleasure, procure the signature of the latter to what purported to be an absolute deed of gift or transfer of any portion or portions of his remaining property or estate, or, at all events, of any portion or portions thereof that was or were in the least involved in, or in the slightest degree threatened with litigation, or might be apprehended, supposed, or fancied so to be. Though he may then have supposed that he had succeeded in the fraudulent conversion to his own use of the money received as aforesaid from the said Ridgway's executors, in January, 1848, and might have anticipated a partial success as ultimately attainable in the said case of Peisch's estate, yet he had as yet no encouragement in the prospects held forth in the matter of Sibbald's estate. Inflamed with a cupidity, increasing from year to year, as the secret expenditures of his illicit extra domestic establishment aforesaid were augmenting themselves, and apprehensive lest his father might perchance discover the existence of the separate household, which he was privately maintaining at

great cost, he conceived, and in the following month of June, 1849, executed the design of obtaining his said father's signature at foot of the pretended deed, next hereinafter mentioned.

On or about the 7th or 8th day of June, in the year 1849, a writing purporting to be a deed dated on the former, and acknowledged on the latter of those days, was, by the said Daniel Man, the elder, subscribed with his signature opposite the seal at foot thereof. Of this writing, a true copy is hereto annexed as part of this bill. The original, which the complainant has lately seen, is a parchment containing an ordinary printed form of a deed of bargain and sale, in a type then quite illegible by the said Daniel Man, the elder. The names of the parties, pronouns referring to them respectively, description of the subjects of conveyance, part of the date, and part of the clause of warranty, were, in the said printed form, blank. These blanks had been filled up by the said Daniel Man, the younger, and are wholly in his handwriting, in small fine letters, such as were then illegible by the said Daniel Man, the elder. According to the purport of this writing it was a deed of gift by which, for the professed consideration of natural love and affection, and the nominal pecuniary consideration of one dollar, the said Daniel Man, the elder, conveyed to the said Daniel Man, the younger, and his heirs, the said two lots of ground on Schuylkill Second Street, two lots of ground in Spring Garden, and lot of ground on Mulberry Street.

No member of the family of the said Daniel Man, the elder, except the said Daniel Man, the younger, had any knowledge of the existence of any of the several writings, purporting to be deeds of gift, transfers or conveyances, executed by the said Daniel Man, the elder, as aforesaid, until after the death of both of them, the said Daniel Man, the elder and younger.

The said writing of 7th June, 1849, the last of this series of deeds, was either never delivered at all, or was delivered and accepted, under a secret resulting trust and confidence, for the use of the said Daniel Man, the elder. It was either thus delivered and received in trust and confidence, or its existence was fraudulently concealed from him by the said Daniel Man, the younger, or its contents, purport, and effect fraudently concealed from him, or falsely and fraudulently misrepresented to him by the said Daniel Man, the younger. The said Daniel Man, the elder, was either always, until his death, entirely ignorant of the existence of such a deed, or believed it a conveyance upon a trust enuring, as aforesaid, for his own use.

As between the said Daniel Man, the elder, and Daniel Man, the younger, this pretended deed of 7th June, 1849, never took effect as a subsisting conveyance according to its purport. In

September, 1849, a negotiation was pending between them and David Paul Brown, Esquire, for the sale and purchase of the said lot of ground on the north side of Mulberry Street, or part of it. In this negotiation the said Daniel Man, the elder, with the knowledge and acquiescence of the said Daniel Man, the younger, was treated with as the sole owner of the said lot of ground; and letters addressed to him, in that character, by the said David Paul Brown, were indorsed by the said Daniel Man, the younger, with their dates as received, and filed among the papers of the business of the said Daniel Man, the elder. These letters the complainant avers to be in the possession or control of the defendants, or some of them; and prays may be produced. Afterwards, in the following month of November, 1849, this lot was, by the said Daniel Man, the elder, sold; and was, on or about the 22d of that month, by deed of that date, for the consideration of thirteen thousand, five hundred dollars, conveyed by the said Daniel Man, the elder, to Elijah Vansyckel and his heirs. In the transactions attendant upon this sale and purchase, the said Daniel Man, the younger, as agent of the said Daniel Man, the elder, intervened and participated; and acquiesced in the conveyance thereof by the said Daniel Man, the elder, never alleging or pretending property in himself. The consideration, $13,500, was, on the 24th of the same month, deposited in bank to the credit of the said Daniel Man, the elder, by the said Daniel Man the younger, as his agent, or with his, the said Daniel, the younger's assent and privity. It was by the said Daniel Man, the younger, on that day, with his own handwriting, entered as "cash 13,500" in the check book of the said Daniel Man, the elder. The taxes on the premises thus sold to the time of sale, $88 $\frac{75}{100}$, and the broker's commission for effecting the sale, $135, were paid out of the purchase-money in checks of the said Daniel Man, the elder, which were entered in his check-book by the said Daniel Man, the younger. On the same day the said broker subscribed in the receipt-book of the said Daniel Man, the elder, a receipt wholly in the handwriting of the said Daniel Man, the younger, in the words and figures following: "Rec'd., Philadelphia, 24 Nov'r, 1849, from "Daniel Man, one hundred and thirty-five dollars in full, for "commission sale of real estate in Arch St. $135." Of the remaining $13,276 $\frac{25}{100}$ the complainant has been able to trace the appropriation of all except $223 $\frac{75}{100}$, as follows; that is to say, $3,015 thereof was applied on the 6th of December, 1849, in discharge of the balance of principal, $3,000, with one month's interest then due, of a mortgage debt of the said Daniel Man, the elder, to the Philadelphia Saving Fund, and $9,913 $\frac{75}{100}$ was, on or about the 29th or 30th of that month, invested in the pur-

chase of $11,000 funded debt of Pennsylvania, bearing an interest of five per cent. per annum, at $89\frac{7}{8}$ for each $100 thereof, and $\frac{1}{4}$ per cent. brokerage. The certificate for this $11,000 of five per cent. funded debt of Pennsylvania was *in the name of the said Daniel Man, the elder.*

The said Daniel Man, the elder, had from other sources acquired in November, 1845, $3,000 six per cent., and in March, 1848, $1,000 five per cent. funded debt of Pennsylvania, on which the half-yearly interest receivable, on the first days of February and August in each year, after deducting the State tax, had been $109\frac{25}{100}$. By the said investment in December, 1849, of part of the proceeds of sale of the said Mulberry Street lot, in the purchase of an additional $11,000 of Pennsylvania five per cent. stock, he became entitled to receive the additional half-yearly amount of $261\frac{25}{100}$, so that after December, 1849, the whole amount of his half-yearly dividends from the State of Pennsylvania, receivable on the 1st of February and August, was $370\frac{50}{100}$. This amount of $370\frac{50}{100}$ was accordingly from half year to half year received by him or for his use. The said Daniel Man, the younger, omitted to enter the receipt of the half-yearly dividend of August, 1850, in the said income-book; but the receipts of those of February, 1850, and February, 1851, were entered by him in it; each originally as $370\frac{50}{100}$. Each of these entries was afterwards, after the death of the said Daniel Man, the elder, or at some other time, fraudulently falsified and altered by the said Daniel Man, the younger, by changing the said true amount, in each case, from $370\frac{50}{100}$ to the said former amount of $109\frac{50}{100}$, as has been already stated.

The receipts for taxes on other items of property embraced in the same pretended deed of 7th June, 1849, were, from time to time, afterwards written by the respective collectors in the receipt-book of the said Daniel Man, the elder, who paid the same, with the knowledge and acquiescence of the said Daniel Man, the younger. In some instances, the check of the said Daniel Man, the elder, given in payment for the same, was entered in his check-book by and in the handwriting of the said Daniel Man, the younger, specifying the account for which it had been so paid. In one instance, in which the said Daniel Man, the younger, entered the payment of such a tax on the said lot in Spring Garden, in the said income-book, he afterwards fraudulently erased this entry, as has been already stated.

The said lots on Schuylkill Second Street, or one of them, or some part of one of them, at and before, and after the date of the said pretended deed of 7th June, 1849, were, or was, in the possession of William Kirk, under a demise from the said

Daniel Man, the elder, for a term of years, or from year to year, at the yearly rent of one hundred and fifty dollars, payable half yearly on the first days of January and July in each year of the said tenancy. Before the date of the said pretended deed of 7th June, 1849, the said Daniel Man, the younger, as agent of the said Daniel Man, the elder, had collected and received the half-yearly rent aforesaid from the said William Kirk. After the date of this pretended deed, he continued to receive the said half-yearly rent from the said William Kirk; and on so doing, on the second day of July, 1849, for the half year's rent due on the first day of that month, on the 5th of January, 1850, for the half year's rent due on the first of that month, and on the 8th of July, 1850, for the half year's rent due on the first of that month, subscribed the respective receipts, of which, as part of this bill, copies are hereto annexed; each signed by him, the said Daniel Man, the younger, in the words "DANIEL MAN BY HIS ATTORNEY IN FACT, DANIEL "MAN, JR.," as will, on reference to the said receipts and signatures appear.

The complainant is advised and avers that the said receipts, so as aforesaid subscribed by the said Daniel Man, the younger, are, in effect, an express declaration by the said Daniel Man, the younger, of the resulting trust, on which he held the subjects of the said pretended deed of 7th June, 1849; and that whether the same be regarded in the light of such a declaration of trust, or as evidence, that as between the said Daniel Man, the elder, and Daniel Man, the younger, there had been no delivery of the said pretended deed, the result is in equity and good conscience the same; and the said Daniel Man, the elder, will, in this court, be regarded as never having parted with the beneficial ownership of the said subjects of the said pretended deed of 7th June, 1849.

The complainant is therefore advised that an allegation on the part of the said Daniel Man, the younger, in his lifetime, or of any party claiming under him since his death, that the said writing of 7th June, 1849, was delivered and took effect as an absolute conveyance to the said Daniel Man, the younger, for his own use, according to its purport, would have been inadmissible if the said Daniel Man, the elder, at the time of subscribing it, had even been in the prime, or maturity and vigor of life, and in full possession of unimpaired mental faculties, and there had been no prior or cotemporaneous fiduciary relations between them such as aforesaid. But the complainant is likewise advised that in view of the existence of the fiduciary relations between them, which, in fact, subsisted as aforesaid, and of the great age and mental and bodily infirmities of the

said Daniel Man, the elder, and the said morbid condition of his mind under any real or imaginary apprehension of encountering litigation in any possible form, a legal presumption against the validity of the said pretended deed arises; and that it lies upon any party alleging title under it to encounter and rebut such adverse presumption by alleging and proving such facts as, he is quite certain, cannot be truly suggested or alleged of and concerning the same.

But the complainant, in order to meet any and every alternative aspect of his case in which it may be presented, avers of and concerning the said pretended deed of 7th June, 1849, that it was obtained and procured from the said Daniel Man, the elder, by the said Daniel Man, the younger, by means of actual fraud, artifice, and circumvention, such as were used and employed in obtaining the two pretended deeds of March, 1845, and May, 1849, aforesaid; and repeats of and concerning the said pretended deed of 7th June, 1849, each and every averment and allegation under this head hereinbefore made of or concerning the said two former deeds, and each or either of them, and prays that the same may be deemed and taken to be here at large repeated and set forth.

The value of the subjects of the said pretended deed of 7th June, 1849, exceeded that of all the rest of the property of the said Daniel Man, the elder. *By this pretended deed, and the former pretended deeds of gift aforesaid, if valid according to their respective purports, the said Daniel Man, the elder, would, therefore, without consideration, have divested himself of the greater and more valuable portions of all his property in favor of a member of his family, who, if his whole life had not been, as it was, a fiction, would probably not have received in his lifetime, or at his death, any portion whatever of his estate.*

Whatever may have been the false confidence which the said Daniel Man, the elder, at any time, reposed in the said Daniel Man, the younger, so unequal a division of his, the said Daniel Man, the elder's, property, was repugnant altogether to his well ascertained wishes and intentions while his mental faculties were unimpaired.

He preferred the disposition of his estate, which the law would make in case of his intestacy, to any testamentary disposition. He entertained this preference, and the wishes and intentions aforesaid, long after his estrangement aforesaid from the complainant.

Charles Wheeler, Esq., above named, who, for a quarter of a century, was his friend, as well as his counsellor and attorney, had, more than once, before the making of the said pretended deed of 7th June, 1849, suggested to him the expediency of

his making a will; but had always found him unwilling so to do. A reason which he then gave to the said Charles Wheeler for this unwillingness, was his reluctance to appoint as his executor a stranger in blood and interest, who would through such an appointment, receive a commission out of his estate. But while he thus objected to the intervention of such a stranger in the management of his estate after his death, he had never, in any manner, suggested the nomination of the said Daniel Man, the younger, as his executor. The said Daniel Man, the elder, while thus in possession of unimpaired mental faculties, had been sufficiently conversant with general usages of business to know that on his death intestate, the said Daniel Man, the younger, would probably, on application, receive the grant of administration of his estate; but also knew that in such case security would be required of him; and that the respective interests of the complainant and the said Daniel Man King would be thus protected. As his mental imbecilities rendered him, in his extreme old age, from day to day less tenacious of these and other former impressions and purposes, the said Daniel Man, the younger, artfully devised and contrived, and fraudulently executed a scheme for availing himself of his own unbounded influence over his said father, and of the said friendly counsel of Mr. Wheeler, in order, deceptively, to procure the said Daniel Man, the elder, to execute a writing purporting to be a will, such as might promote his, the said Daniel Man, the younger's, evil designs aforesaid. The particular object of the said Daniel Man, the younger, was to procure, by covert and unfair artifice, an insertion in such a will of some apparent sanction or confirmation of the said pretended deeds of transfer to him, or of some of them, and more particularly of that of 7th June, 1849. He, therefore, in conversation with the said Charles Wheeler, craftily took advantage of a renewal, or craftily contrived to draw forth a renewal of his, the said Wheeler's, former suggestion, on the subject of a will. The result of this conversation was an interview between the said Daniel Man, the elder, and the said Charles Wheeler, brought about by the said Daniel Man, the younger, in which the said Charles Wheeler was given to understand that he was to prepare a will to be executed by the said Daniel Man, the elder. This interview was followed by several conversations on the subject between the said Daniel Man, the younger, and the said Charles Wheeler, at which the said Daniel Man, the elder, was not present.

The said Daniel Man, the younger, had, therefore, from the commencement of his agency of his father's business, in every mode in his power, deprived him of that aid of the said Charles

Wheeler, which might otherwise have tended to protect him from imposition in the transactions which are the subject of this bill. Although the said Daniel Man, the younger, as agent of his said father, was in occasional communication with the said Charles Wheeler, on an externally friendly footing, he had kept him as far as possible ignorant of all material facts relating to the subjects of the said agency. The said Charles Wheeler, from his former relations with the said Daniel Man, the elder, had acted as one of the counsel of the said Daniel Man, the younger, in the said controversy with Drexel, but was kept in ignorance of the interest of the said Ridgway in his lifetime, and of his devisees after his death, in the subject of that controversy; and was never informed of the settlement made with them, as aforesaid, in January, 1848. Of these and other matters, the said Charles Wheeler, until after the deaths of the said Daniel Man, the elder and younger, was altogether ignorant. He never acted, or was retained to act, as counsel in the litigations concerning the subjects of the said writings purporting to be assignments to the said Daniel Man, the younger, by the said Daniel Man, the elder, of his interests in the said estates of Peisch and Sibbald respectively, or either of them. He had never seen either of the said pretended assignments, or known their character or purport; though from having been examined as a witness in the proceedings relating to the former estate, and from occasional verbal communications from the said Daniel Man, the younger, as to the claim on the latter estate, he had derived a vague impression that these litigated dependencies had been in some manner transferred to him, or placed under his control and management. Of the existence of the said pretended deed of 7th June, 1849, purporting to convey the said unimproved real estate, he had no knowledge or suspicion whatever, and remained in total ignorance of it until after the deaths of the said Daniel Man, the elder and younger. Its existence was always studiously concealed from him by the said Daniel Man, the younger, who had not placed it on record.

The said Charles Wheeler, though thus ignorant of these material facts, was aware that the said Daniel Man, the elder, had confided the general care, management, and control of his real and personal property to the said Daniel Man, the younger, whom he, therefore, did not regard as a party having pretensions or claims of his own, against which the supposed testator needed protection; but, on the contrary, regarded as his representative, from whom, in his presence or absence, instructions might properly be received and relied on in the preparation of the said testamentary acts.

The instructions under which the said writing, purporting to be the will of the said Daniel Man, the elder, was prepared, so far as received from himself, were merely to divide his estate into three parts, and place the complainant's part in trust, and to give three hundred dollars to the said housekeeper. The remaining instructions were given wholly by the said Daniel Man, the younger. By these instructions of the said Daniel Man, the younger, the form of this trust, as to the complainant's share, was determined, the executorship was conferred upon himself, the said Daniel Man, the younger, and his own powers determined.

Moreover, as to the clause in the said will, in the words, "I "give and devise all my estate, viz: one-third to my son Daniel "and his heirs; *this over and above what I have already given to* "*him;*" the complainant avers that the said Daniel Man, the younger, gave the only instruction under which the said words, *this over and above what I have already given to him*, were inserted therein.

The complainant believes that the said Daniel Man, the younger, fallaciously hoped that the said words, "this over and "above what I have already given to him," would be understood as a ratification of the said pretended deeds of gift, or some of them; and particularly of the said pretended deed of 7th June, 1849. In order, therefore, that there may be no mistake or uncertainty concerning the proper subjects to which these words would be regarded as referrible, if the said writing, purporting to be the will of the said Daniel Man, the elder, were to all intents and purposes valid and effectual, the complainant here shows that, in 1842, and all the subsequent intervening years until its date, the said Daniel Man, the younger, who was, during all those years, boarding and lodging free of charge in the house of his said father, received from him several thousand dollars, wholly or partly, by way of gift or advancement, at various times, in several items, of which many are entered in the said income-book; some in the handwriting of the said Daniel Man, the elder, others in that of the said Daniel Man, the younger. Many of the said items, omitted in that book, were entered in the said only extant check-book of the said Daniel Man, the elder, in the handwriting of the said Daniel Man, the younger. The complainant believes and avers that the said Daniel Man, the younger, received divers other sums of money, of like character, at various times, and of various amounts, to the complainant at present unknown, but which he prays may be discovered by the defendants in their answers, or ascertained by proofs at the hearing, or otherwise, as the court may direct; and he prays the same benefit of such dis-

covery, proof, or ascertainment, as if the matter thereof were here fully and particularly averred. Although, therefore, the said writing had been, to all intents and purposes, the will of the said Daniel Man, the elder, and although he had been cognizant that it contained the said expression, "over and above what I have already given to him," and although he had been mentally capable of understanding the effect of such words, the complainant having shown, as aforesaid, that there were the said other subjects to which the words were applicable, is advised, and submits, that the clause in question could have no greater or other effect than to exempt the said Daniel Man, the younger, from bringing these gifts or advancements into hotchpot, as the condition of his participating in the division of the testator's estate, and to remove all doubt and uncertainty on this point.

The complainant is, moreover, advised that, if the said writing were to all intents and purposes the will of the said Daniel Man, the elder, and there were no subject-matter of the clause in question other than the subjects of the said pretended deeds, yet the said clause could not, in any event, be interpreted or take effect in such a manner as to sanction or validate pretended gifts, otherwise null and void by reason of the fraud, breach of confidence, undue influence used, and undue advantage taken, hereinbefore and hereinafter mentioned; much less validate pretended gifts, of which the character, effect, and very existence, had been fraudulently suppressed and concealed, as aforesaid.

In the said subsequent writing, purporting to be a codicil to the said will, the said Daniel Man, the younger, moreover, to serve his particular individual purposes, procured the insertion, by the said Charles Wheeler, of a clause, to which the complainant here refers, as indicating the mode and extent of his the said Daniel Man, the younger's, intervention and participation in the preparation of the said will and codicil. By this clause, the testator was made to direct that the share which he had devised to the said Daniel Man, the younger, should, in the event of his, the said Daniel Man, the younger's, death, *before the testator's death*, be distributed in such manner and to such persons as he, the said Daniel Man, the younger, should, *by his will*, or writing, in the nature thereof, limit and appoint. This peculiar and unusual clause, providing against lapse by giving a *testamentary power* to a legatee dying in the lifetime of the primary testator, was, as the complainant submits, made with an adaptation to the domestic relations of the said Daniel Man, the younger, with the said Louisa, and their illegitimate children, who would have been incapable of succeeding under the statute, which, if they had been legitimate, would have pre-

vented the lapse of their shares. This will be confirmed when the clause in question is compared with the said will of the said Daniel Man, the younger. The instruction to insert this clause in the said codicil was entirely that of the said Daniel, the younger, to Mr. Wheeler, who received no instruction, and had no conversation on the subject of it with the said Daniel Man, the elder. This, and other parts of the said codicil, were drafted by the said Daniel Man, the younger, and his drafts copied by the said Charles Wheeler, and embodied in it, with or without modifications, as he saw proper.

In pursuance of such instructions as the said Mr. Wheeler had thus received, or regarded himself as having received, the will of the 27th of November, 1850, and codicil of the 11th of December, 1850, or writings purporting respectively to be such will and codicil, of which copies are hereto annexed as part of this bill, were prepared by him. These writings, respectively were subscribed by the said Daniel Man, the elder, and attested by the subscribing witnesses, whose names appear in the said copies. At the time of their execution, nothing occurred except an apparent assent on his part when asked, in the presence of these witnesses, the formal question whether he signed, sealed, published, and declared the said will and codicil, respectively, as and for his last will and testament and codicil thereto.

The said will, as the said Charles Wheeler first prepared it for execution, was engrossed by him in a fair, plain, round hand, in letters a quarter of an inch, or thereabouts, in height. The said Daniel Man, the elder, though formerly very familiar with his handwriting, could not read it, as has been stated in a former part of this bill. The said writing, purporting to be his will, was therefore afterwards engrossed with a pen, as has been already stated, in letters half an inch in height, in the form of printed letters; and the said writing, purporting to be such codicil, was afterwards engrossed in like manner. Whether, when thus engrossed, they were legible by the said Daniel Man, the elder, the complainant does not know. He does not know how far the said writings might or might not have been regarded as the last will of the said Daniel Man, the elder, and codicil thereto, if there had not been undue influence used by the said Daniel Man, the younger, and unfair and fraudulent advantage taken by him of the fiduciary relation in which he stood, or, if the said Charles Wheeler had known all that was required to be known in order to enable him to protect adequately the said Daniel Man, the elder, in those respects in which he needed protection in the premises; and had been able to furnish him such protection as was needful therein. The

complainant is advised that as none of these conditions was fulfilled, this question is immaterial. He is also advised, that in the said fiduciary relation in which the said Daniel Man, the younger, stood, he could not, through such a will and codicil, if in other particulars valid, acquire any benefit or advantage from the bequests and devices which he obtained, or was instrumental in obtaining, through the fraudulent practices and contrivances, suppressions, and concealments aforesaid.

After obtaining the said will and codicil as aforesaid, the said Daniel Man, the younger, continued, as before, to conceal the existence of the said pretended deed of 7th June, 1849. It remained unrecorded. Its subjects were still treated by him as property of the said Daniel Man, the elder. This has already been shown in the fact that the interest of February, 1851, on the said $11,000, five per cent. funded debt of Pennsylvania, which was an investment of part of the proceeds of sale of the said lot on Mulberry Street, was entered by him in the said income-book of the said Daniel Man, the elder, as his, the said Daniel Man, the elder's money. It is further, in like manner, shown in this, which the complainant avers to be true, that the said half-yearly rent payable by the said William Kirk for the said Schuylkill Second Street property, received by the said Daniel Man, the younger, in January and July, 1851, was entered by him in the said income-book as cash of the said Daniel Man, the elder.

On the 31st of December, 1851, within a fortnight, or thereabouts, of the death of the said Daniel Man, the elder, and when he was at the point of death, or was regarded so to be, and quite incapable of attending to any business, the said Daniel Man, the younger, for the first time, produced the said pretended deed of 7th June, 1849, in order to place it on record; which he did on that day. Until after his, the said Daniel Man, the younger's, own death, its existence remained unknown to the complainant, and the said Daniel Man King, as has been already stated. In the mean time, the said Daniel Man, the younger, in order to destroy the evidence which the said income-book afforded of the continuance of the said Daniel Man, the elder's, ownership of the subjects of the said pretended deed of 7th June, 1849, and obliterate the memorials of his, the said Daniel Man, the younger's, repeated recognitions of such ownership, fraudulently falsified, as aforesaid, the said entries of the receipt of interest on the said $11,000, five per cent. funded debt of Pennsylvania, and fraudulently erased from the said book all entries of receipts of rent from the said William Kirk, after the date of this pretended deed, and the two entries aforesaid, relating to interest on the said mortgage debt to the

Philadelphia Saving Fund, and entry of the said payment of tax on the Spring Garden lot.

The said Daniel Man, the younger, in his own will aforesaid, dated the 1st of July, 1852, inserted a provision, that when the said lot on Broad and Green Streets, in Spring Garden (one of the subjects of the said pretended deed of 7th June, 1849), should be sold, the complainant should receive an annuity of eight hundred dollars for life, and the said Daniel Man King, one of four hundred dollars for life out of the income of the proceeds. By the last codicil aforesaid to the said will, dated 22d November, 1852, he reduced the said annuity to the complainant to six hundred dollars, and that to the said Daniel Man King to one hundred dollars per annum; adding the following words: "Provided, however, that the above sums are "only to accrue and to be paid after the sale of the lot at the "corner of Broad and Green Street, Spring Garden, conveyed "to me, *inter alia*, by my father, on the seventh day of June, "A. D. 1849, and recorded in Deed Book T. H., No. in De- "cember, 1851, and to be paid out of the interest of the prin- "cipal sum received therefor. I direct my executors to com- "plete the purchase of the lot adjoining my Walnut Street lot, "at Schuylkill Second, which I am now negotiating with Mr. "William Kirk (in case the same shall not be completed at the "time of my decease), and use my personal estate therefor. "These lots at Walnut Street and Schuylkill Second, were con- "veyed to me by my late father on the seventh day of June, "A. D. 1849. The lot on Arch Street, conveyed to me in the "same deed, was afterwards sold by my father before the deed "to me was recorded, and the purchase-money, $13,500, was "received by him on the 29th of November, 1849." These crafty testamentary gifts to the complainant and his nephew, the said Daniel Man King, were artfully, insiduously, fraudulently, and deceitfully contrived and intended by the said Daniel Man, the younger, to raise what, if they had respectively been accepted, might have presented an apparent, or supposed, case of an election by the respective annuitants to adopt and confirm the said pretended deed by accepting a benefit under it, and thus estop or preclude themselves from afterwards disputing its validity. The complainant is advised that the effect of the recognition by the said Daniel Man, the younger, in the said codicil of the fact that the said Daniel Man, the elder, long after making this pretended deed, had received as his own the proceeds of sale of the said lot on Arch or Mulberry Street, one of the pretended subjects of the deed, is not weakened by the said evasive and insufficient pretext that the deed had not then been recorded, as suggested in the said codicil, in expla-

nation of it. It has already been shown, and can be conclusively proved, that the sale of the said lot was negotiated, the conveyance of it made, and the proceeds received, in the name of the said Daniel Man, the elder, by the said Daniel Man, the younger, himself, for, and on behalf, and as agent of the said Daniel Man, the elder. The complainant is therefore advised that this pretext or suggestion of the said Daniel Man, the younger, that the deed had not then been recorded, is of no effect or significance against the substantial admission of the said Daniel Man, the elder's, ownership.

The complainant prays that the subjects of the said pretended deed of 7th June, 1849, other than the said lot on Mulberry Street, may be ascertained by the decree of the court to be real estate of the said Daniel Man, the elder, and not of the said Daniel Man, the younger; and that proper conveyances may be executed by the party or parties in whom the legal title is, or may be vested, in order to assure the said real estate to the heirs, devisees, or legal representatives of the said Daniel Man, the elder, as equity and good conscience may require.

Forasmuch as while this and other litigations may be pending, the said real estate would, without the aid of this court, be unmarketable, by reason of the existing controversy concerning the title; but parties in the cause may, nevertheless, by the court's aid, under orders or decrees, unite, for the security of purchasers, in conveying both adverse titles without prejudice to the future decision of their controversies; therefore, the complainant prays that, under the powers or directions of sale, contained as well in the said will of the said Daniel Man, the younger, as in the will of the said Daniel Man, the elder, the real estate which purported to be the subject of the said pretended deed may, if the common welfare of all parties interested, or of the greater part of them, in number, or amount and value, require it, be sold; the parties by the said wills empowered to convey, joining in conveyances, under the direction of the court, without prejudice to their mutual, or opposing rights; and that the court will take care of the proceeds of any such sale or sales, and thereafter decree payment of the same as to right may pertain, and will direct the investment of the proceeds in the mean time, and will take such order as may be required for the collection and safe-keeping of the dividends, interest, or income of such investments, and of the rents and profits, until sale; and will, by injunction, prohibit the defendants, and each of them, from selling the said real estate, or any part thereof, without the previous order and direction of the court.

The complainant, since the foregoing and subsequent parts

of this bill were drafted, has learned, and avers that the defendants, Jordan and Paul, executors of the said Daniel Man, the younger, under color or pretence of an authority derived under the said clause of his will, directing them to complete the purchase, which he was then negotiating, of the lot adjoining the said Walnut Street lot at Schuylkill Second, and use his personal estate therefor, have recently converted a portion of the personal estate, in their hands, into real estate, by the purchase or acquisition of such adjacent land, on some terms and in some manner to the complainant unknown, of which he prays that there may be a full discovery, and proper investigation and ascertainment. He prays that, after the truth in relation thereto shall have been ascertained, he may be allowed a reasonable time to elect, whether the said personal estate, or the value thereof, with interest, or his share thereof, shall be replaced, reimbursed, or restored, or the said newly acquired adjacent land shall be taken and regarded as land of the said Daniel Man, the elder, subject to the prayers hereinbefore and hereinafter contained of and concerning subjects of the said pretended deed of 7th June, 1849, and other property, real or personal, as to which the court's decree, ascertaining the same to be parts of the estate of the said Daniel Man, the elder, and not of the said Daniel Man, the younger, is prayed in this bill.

§ 55. Claim of moneys received by D. Man, Jr., from sales of unseated lands misapplied, or not accounted for.

Under another head of the relief, hereinafter particularly prayed, the complainant shows that the real estate of the said Daniel Man, the elder, beyond the limits of Philadelphia County, consisted of unseated lands, or lands of which the greater portion were unseated, in other counties of this commonwealth, and, for aught the complainant knows, in other States, under the care of local agents, who, from time to time, accounted for the proceeds of sales thereof; and, after deducting expenses, made occasional remittances on account of their collections. Such payments were, in some instances, entered in the said income-book; but the complainant does not know, or otherwise than may be thence inferred, believe that this was the proper book in which to enter the receipt of all or any such moneys. Of the proceeds of these lands, the complainant prays that an account may be taken under the direction of the court. At present the only items of charge under this head against the estate of the said Daniel Man, the younger, in favor of the estate of the said Daniel Man, the elder, which he can specify, are $550, or thereabouts, received in or about the spring of the year 1850, from B. R. Bradford, which came, as he believes and avers, to the

hands of the said Daniel Man, the younger, who never accounted for the same; $200 received in or about June, 1846; 50\frac{50}{100}$, received in or about April; and $20, part of $50, received in or about June, 1849, from V. L. Maxwell. As to the last of these items, there is, in the said income-book, an entry of $30 instead of $50. In the proper places, for the respective entries of the two next preceding items, entries have been erased from this book. The complainant does not know whether these erased entries did or did not relate to these items; and prays that, if they shall appear to have related to them, he may have the same benefit thereof as if the same had been here particularly averred. These items of proceeds of sales of unseated lands, so far as thus specified, are of small magnitude, as compared with other subjects of particular specification in this bill. But the discovery and account, under this head, may lead, on the one hand, to more important disclosures; and the complainant is, on the other hand, advised that it is here proper to specify all facts within his knowledge which may admit of explanation, and which the defendants ought to have the opportunity of explaining in their answers, or of preparing to meet by proofs.

§ 56. Claim of $3,250, and interest thereon, received from Joseph Purvis.

Under another head of the relief hereinafter particularly prayed, the complainant shows that, of the funds of the said Daniel Man, the elder, the principal sum of $3,250 had, in or about the year 1844, been invested, in his own name, in a loan to Joseph Purvis, who had thereupon executed and delivered his bond to the said Daniel Man, the elder, conditioned for the payment to him of that sum, at a day named therein, with interest half-yearly, secured by mortgage of real estate. The said Purvis, half-yearly, from that date, on or about the respective days when the said interest accrued and became payable, had, with ordinary regularity, paid the same. The first half-yearly interest, 97\frac{50}{100}$, was thus paid to the said Daniel Man, the younger, who, on the 29th of August, 1844, as agent of the said Daniel Man, the elder, subscribed a receipt for the same. The subsequent half-yearly sums of money of that amount were paid, sometimes directly to the said Daniel Man, the elder, but more frequently to the said Daniel Man, the younger, as his agent. In this manner, the interest accrued to the 28th of August, 1849, had been paid, when, on or about the 6th day of December, 1849, $600, paid by the said Purvis on account of the principal, came to the hands of the said Daniel Man, the younger. The next half-yearly interest, viz: on $3,250, from the 28th of August to the 6th of December, 1849, and on $2,650 from the 6th of December, 1849, to the 28th of February, 1850,

together computed as $88, was received by the said Daniel Man, the younger, on or about the 11th of March, 1850. The next half-yearly instalment of interest, $79 50/100, on $2,650, the balance of principal of the said mortgage debt, was also received by the said Daniel Man, the younger, on or not long after the 28th of August, 1850, as the complainant believes will, by the answers or proofs, or in taking the account hereinafter prayed, appear, though he has not as yet ascertained the fact positively. The said Daniel Man, the younger, on or about the 7th day of November, in the same year, received $2,680 91/100, the principal and interest thereof in full. The said $600 and $2,680 91/100, and intervening receipt or receipts of interest, were never paid or credited by the said Daniel Man, the younger, to the said Daniel Man, the elder, in his lifetime, or to his estate since his death, but were fraudulently converted and applied by the said Daniel Man, the younger, to his own use. Until the spring of the year 1850, all the several amounts of interest on this mortgage debt received by the said Daniel Man, the elder, and Daniel Man, the younger, including the said $88 paid on the 11th day of March, 1850, were duly entered in the said income-book of the said Daniel Man, the elder. At some subsequent time, which the complainant believes to have been after the death of the said Daniel Man, the elder, the said Daniel Man, the younger, in order the better to conceal his accountability in the premises, fraudulently falsified some and erased all others of the entries in the said book, made after the said year 1848, relating to the interest on the said mortgage debt of Purvis. These erasures and falsifications have been particularly mentioned in the general recapitulation or statement of the falsifications of the said book by erasures and otherwise, hereinbefore contained.

§ 57. Claim of $8,687 and 89 cents, and upwards, excess of receipts of increase above expenditures in 1846 to 1851, inclusive.

Under another head of the relief hereinafter particularly prayed, the complainant shows that, on the face of the said book, the excess of the receipts of income of property of the said Daniel Man, the elder, above his expenditures, of all sorts, appears to have been, in the six years—1846 to 1851, inclusive—$8,687 89/100, or thereabouts, or some other large amount of money, which, with many other large amounts to the complainant unknown, came thus to the hands of the said Daniel Man, the younger, and should, in the taking of the account hereinafter prayed, be charged, with interest, against him and his estate. The complainant does not believe that the said amount of $8,687 89/100 is nearly that of the whole excess of income of the said Daniel Man, the elder, above expenditures received by the said Daniel Man, the younger, for which his estate is chargeable to that of

the said Daniel Man, the elder, in the account to be taken as hereinafter prayed. By reason of the said falsifications and erasures of entries, and by reason, as the complainant believes, of the omission of many entries, which ought to have been, but were never, made, and by reason of other matters hereinafter mentioned, it will, until the said account shall hereafter have been taken, under the direction of the court, be impossible to specify the said surcharges of income beyond the sum of $8,687\frac{85}{100}$.

§ 58. Claim to proceeds of funded debt and other stocks and railroad bonds, &c., wrongfully disposed of, or converted by D. Man, Jr., and to specific or substituted investments, &c.

Under another head of the relief hereinafter particularly prayed, the complainant shows that, in the last year of the life of the said Daniel Man, the elder, two stores, on lots of ground belonging to him, on the east side of North Delaware Second Street, in Philadelphia, and a shop, on a lot of ground belonging to him, on Quarry Street, were rebuilt, with his funds, by the said Daniel Man, the younger, as his agent. The complainant believes that the said Daniel Man, the younger, never gave to the said Daniel Man, the elder, an account of the expenditures incurred in making these improvements, but, from the best information on the subject that has been obtainable, avers that the cost of the said improvements did not, in the whole, exceed $13,303\frac{46}{100}$, if it amounted to that sum. He believes that the said improvements on Second Street were made at a cost of about $13,000, and the said improvement on Quarry Street at a cost of not quite $300. If the said Daniel Man, the younger, had been honest and faithful in his agency aforesaid, there would, from sources already mentioned in this bill, have been ample funds, of the said Daniel Man, the elder, in hand, to have defrayed the cost of the said improvements. Nevertheless, when these improvements were in prospect or in progress, the said Daniel Man, the younger, taking advantage of the said Daniel Man, the elder's, increasing infirmities, and craftily concealing from him the amounts of funds which were, or ought to have been, in hand from the said excess of income beyond expenditures, the said payments by Joseph Purvis, and receipts from the various other sources aforesaid, falsely and fraudulently represented to him that moneys for defraying the cost of the said improvements must be raised by disposing of the funded debt and other stocks, of which the sale is hereinafter mentioned. The said Daniel Man, the younger, by this false pretence, deceptively succeeded in procuring the said Daniel Man, the elder, to execute what purported, in some cases, to be transfers of such stocks and funded debt, and, in other cases, to be letters of attorney, such as are usual on transfers of them

through the agency of brokers, giving irrevocable authority to an attorney, whose name, left in blank, may be afterwards inserted, to sell and transfer to himself, or to any other person. These transfers in the former cases, and powers in the latter cases, and all transfers made in pursuance of such powers, were merely means devised in order to facilitate the said Daniel Man, the younger, in disposing of and transferring the said stocks and funded debt in execution of his agency and performance of his fiduciary functions aforesaid. They would not have enabled him, in any case, to acquire, in any subject thereof, an interest in himself, independent of, or adverse to, that of the said Daniel Man, the elder, if the latter had been in the vigor of life, and in full possession of his mental faculties. If title, adverse to that of his estate, be claimed under the said acts, or any of them, by the defendants, or any of them, the complainant prays that all and every averment and allegation hereinbefore contained, impugning the validity of all and every former deed and deeds hereinbefore mentioned, purporting to be deeds of gift or transfers, may be deemed and taken to be here repeated of and concerning these pretended powers and transfers, and applied thereto as if such allegations and averments had been here again at large set forth.

Under color or pretence of an authority derived from such writings or acts, or some of them, or from the said writings of 1847 and 1848, purporting to be letters of attorney, or one of them, the said Daniel Man, the younger, in March, 1851, or at some other time, sold the said $3,000, six per cent. funded debt of Pennsylvania, for some price to the complainant unknown, which he prays may be discovered in the answers, or ascertained by proofs or otherwise, as the court may direct. Afterwards, in May or June, 1851, or at some other time, he, in like manner, sold for $3,150, or thereabouts, one hundred and fifty shares of the capital stock of the Doylestown Bank, of which the said Daniel Man, the elder, had for many years been the owner. On the back of an old letter, from the cashier of this bank, the said Daniel Man, the elder, had made a memorandum of the number of shares of this stock, which he had acquired by successive investments in it, summed up as "shares 150." Under this memorandum, the said Daniel Man, the younger, after the said sale, at some time to the complainant unknown, wrote a note in the words and figures, "sold in May, 1851, to build stores on 2d St.," as by the said memorandum and note at foot thereof, indorsed on the said letter, which the complainant avers to be in the possession or control of the defendants, or some of them, and prays may be produced, will appear. Whether the proceeds of the said sale of Doylestown Bank stock were in truth

applied towards payment of the cost of building the said stores the complainant does not know; and prays that, if material, it may be discovered by the answers, or ascertained by the proofs, or otherwise. In or about June, 1851, or at some other time, the said Daniel Man, the younger, in like manner, disposed, in three sales or otherwise, of $10,000, part of the said five per cent. funded debt of Pennsylvania, for prices amounting together to $9,362\frac{50}{100}$, or some other large sum of money. In or about July, 1851, or at some other time, he bought with funds of the said Daniel Man, the elder, derived from this or some other source, six bonds of the Camden and Amboy Railroad Company, for $1,000 each, for prices amounting in the whole to $5,847\frac{50}{100}$, or some other large sum of money. The principal of these bonds was payable to bearer; and coupons for the half-yearly instalments of interest thereon were also payable to bearer. Their ownership, therefore, was not indicated on their face. At about the same time, the said Daniel Man, the younger, bought, in like manner, with funds of the said Daniel Man, the elder, for $3,834\frac{95}{100}$, or some other large sum of money, one hundred shares of the capital stock of the Philadelphia, Germantown, and Norristown Railroad Company. The said Daniel Man, the elder, then owned, and had for a long time owned, other twelve shares of the same stock, and likewise $1,500 loan or funded debt of the said company; which twelve shares of stock and $1,500 loan, stood in his own name. The said Daniel Man, the younger, pretending authority under a letter of attorney, such as aforesaid, or otherwise, at or about the time of his purchase aforesaid of the said one hundred shares, fraudulently transferred the said twelve shares and $1,500 loan to himself; and wrongfully obtained certificates in his own name for one hundred and twelve shares of the said stock, and $1,500 of the said loan. Afterwards, in or about the month of November, 1851, the said Daniel Man, the younger, sold the remaining $2,000 of the said five per cent. funded debt of Pennsylvania for some price to the complainant unknown, which he prays may be discovered in the answers, or ascertained by proofs, or otherwise, as the court may direct.

Before the said improvement of portions of the real estate, and changes in investments of the personal estate, of the said Daniel Man, the elder, his income had for some years been derived, so far as the complainant knows, chiefly from the rents of houses and stores in Philadelphia, and interest and dividends of mortgages, funded debt, and other stocks, payable at stated days, mostly in sums or amounts approximately uniform.

In cases in which the said Daniel Man, the elder, after the said failure of his mental faculties, and increase of his bodily

infirmities, received the said rents, interest, and dividends, with his own hand, he sometimes entered the receipt of them in the said income-book; but at other times, from forgetfulness or inability to write, omitted so to do. In cases in which the said Daniel Man, the younger, in the course of his agency aforesaid, collected them, he was required to enter the receipt of them in the said book. But in execution of his fraudulent purpose of wrongfully converting to his own use all funds of the said Daniel Man, the elder, on which he could lay his hands, he omitted entering them in the said book, in cases in which he thought that he might escape detection. So far as the said Daniel Man, the elder, from the force and effect of his former habits, may have retained a capacity to recollect the times of payment and amounts of the said rents, dividends, and interest, there was a check, though a slight one, upon the said Daniel Man, the younger's, fraudulent designs aforesaid. This check, however insufficient, was withdrawn as the said amounts and times of payment, and the specific and particular character of the property and investments, from which the said income was derived, were changed from those of former days. The said Daniel Man, the younger, to relieve himself of the said check, availed himself of the said changes in this respect, of which the rebuilding of the said stores had furnished, as aforesaid, the cause or pretext. The complainant further believes and avers that the said Daniel Man, the younger, in order that such changes in the said investments of personal property, and in the amounts of rents of real estate, might occur, and that he might be enabled to take wrongful advantage of such incidental and consequential opportunities for the said fraudulent appropriations and conversions as might occasionally present themselves, projected, in the year 1850, or earlier, the plan of improving the said real estate, as aforesaid; and used his then unbounded influence with the said Daniel Man, the elder, to induce him to give it his apparent sanction. He thereby at once facilitated the execution of his plans of appropriating to his own use the proceeds of investments of capital of his father's estate; and increased the difficulties in the way of a discovery of his accountability for the large amounts of moneys collected by him in the course of his general agency aforesaid, and misapplied, or never invested, or paid over, to his said father.

The said Daniel Man, the elder, in his extreme old age, was, from day to day, becoming more incapable of estimating and bearing in mind the effect of alterations and modifications of his former investments. In this, his unprotected and helpless condition, the said Daniel Man, the younger, found encouragement in forming new fraudulent designs, and facility in carrying

them into effect. He thus conceived, and partly executed the fraudulent purpose of disposing of the said investments, under the pretence of a necessity of providing funds for the payment of the cost of the said improvements, and wrongfully appropriating the proceeds, and substituted investments to his own use.

The complainant has reason to believe, and avers that, the said investments in, or purchases of bonds of the Camden and Amboy Railroad Company, and stock of the Philadelphia, Germantown and Norristown Railroad Company, and transfers of the said stock and of the said loan of the latter company by the said Daniel Man, the younger, into his own name, were made by him fraudulently, with intent to convert the same, wrongfully, to his own use; and were made without the knowledge of the said Daniel Man, the elder; and were fraudulently concealed from him by the said Daniel Man, the younger. In order to conceal the truth as to the ownership of the said $1,500 of the funded debt of the Philadelphia, Germantown and Norristown Railroad Company, and prevent investigation of the fraudulent series of transactions aforesaid, of which the said wrongful transfer thereof was a part, he, subsequently, either after the death of the said Daniel Man, the elder, or at some other time, fraudulently erased from the said income-book entries of the receipt of the interest on the said $1,500, as paid in July, 1851, and semi-annually in several previous years, as has been shown in a former part of this bill. He afterwards, with like intent, fraudulently omitted the said $1,500 loan, and 112 shares of stock of the said company, from his inventory of the said Daniel Man, the elder's, estate.

In the said inventory of the personal estate of the said Daniel Man, the younger, are the said $1,500 loan of the Philadelphia, Germantown and Norristown Railroad Company, and 112 shares of the stock of this company; which his executors aforesaid therein claim to be part of his estate. The complainant avers that these items of this inventory are not part of this estate, but part of the estate of the said Daniel Man, the elder, and asks that it may be so decreed; and that the accounts hereinafter prayed may be taken accordingly. The said six bonds of the Camden and Amboy Railroad Company were immediately, or not very long after the death of the said Daniel Man, the elder, sold by the said Daniel Man, the younger, for prices amounting in the whole, as the complainant believes, to a sum about equal to their cost; of which sum, whether greater or less than, or equal to such cost, and of the amounts of interest received by him from coupons while he held the said bonds, the complainant prays that a proper account may be taken.

The proceeds of sale of the said bonds and amounts received for the said coupons were converted by the said Daniel Man, the younger, to his own use. He fraudulently omitted to mention them, or their value or proceeds, in his inventory of the estate of the said Daniel Man, the elder.

§ 59. Offer to allow proper and equitable credits.

The complainant having thus, according to the best of his information and belief, set forth the disposition, and changes, and conversions of investments, and proceeds of investments whereof the said improvements of real estate were, as he believes, in part or in whole, the primary cause, or pretext, declares that, under this head of his bill, he is willing, that in any account that may be taken, the true amount of the said expenditures in improvements of real estate, when properly ascertained, shall be credited against, and allowed as a deduction from the charges of any funds from which the same shall appear to have been derived; or shall otherwise be credited and allowed as may be just and equitable; and that, if the said 100 shares of stock of the Philadelphia, Germantown, and Norristown Railroad Company be ascertained by the decree of the court to belong to the estate of the said Daniel Man, the elder, proper credit for the cost thereof shall be allowed in like manner, or otherwise, as may be equitable.

§ 60. Claims as to the subjects of which the means of particular specification are wanting through D. Man, Jr.'s, spoliations of evidence, &c.

Under another head of the relief hereinafter particularly prayed, the complainant shows that the said Daniel Man, the younger, fraudulently converted to his own use, the capital, or proceeds and income of other credits, investments or securities, moneys, effects or property, of the said Daniel Man, the elder, of great amount and value, not hereinbefore specifically mentioned; which the complainant is at present unable here to describe or designate, because the said Daniel Man, the younger, in order to prevent the detection or discovery of such conversion thereof, fraudulently concealed, suppressed, removed, and destroyed evidence by which they could have been identified, or described, or designated. The complainant prays that the particulars and amounts thereof, as well capital as income, be discovered in the defendants' answers, or ascertained by proofs at the hearing, or otherwise, as the court may direct.

In some of these cases, entries of receipts of dividends, interest, or other income, recurring at half-yearly or other intervals, have been fraudulently erased from the said income-book by the said Daniel Man, the younger, in such a manner that the complainant has been unable to decipher them, or otherwise

ascertain what they were; but their amounts are determinable, or approximately determinable, by the present excesses of the amounts in the said Daniel Man, the younger's, handwriting, at foot of the respective pages from which they have been erased, beyond the sum of such items as are still extant on the respective pages. From the amounts, or approximate amounts, of half-yearly or other income, thus determinable, an estimate of the amounts or values of capital from which such income was derived, may often be made. Where these amounts or values are not otherwise ascertainable, the complainant averring that the want of other and clearer light upon the subject is the result of the said Daniel Man, the younger's, own failure to preserve the said evidence entire and inviolate, and of his own wrongful spoliation aforesaid, prays that his estate may be charged, and the estate of the said Daniel Man, the elder, credited in account with such amounts of capital and income as ought in equity and good conscience to be thus charged upon such estimates.

§ 61. General claim for deficiency in value of D. Man, Senior's, estate, resulting from D. Man, Jr.'s, unfaithful agency.

Over and above the aggregate of all such charges as may be properly made upon such estimates, as last aforesaid, and all other charges heretofore specified in this bill, under particular heads of complaint, and the values of all items in the said inventories of the estates of the said Daniel Man, the elder and younger, the said Daniel Man, the elder, was, at and before, and for some time after, the commencement of the said Daniel Man, the younger's agency of his affairs, the owner, to a great amount and value, of investments, securities, property, effects, credits, and moneys which were in the possession and control of the said Daniel Man, the younger, as such agent, who never accounted for the same, but wrongfully and fraudulently converted the same to his own use. The said Daniel Man, the younger, as an unfaithful agent as aforesaid, by his fraudulent removals, destructions, suppressions, and concealments of books and papers, not now to be had, and mutilations, erasures, and falsifications of such as remain, and other frauds aforesaid, has prevented the ascertainment by the complainant of the description and particulars of the items composing the said excess in value above such aggregate. This excess in value, therefore, at present, alone indicates the amount of the residue of the subjects of the said agency for which the said Daniel Man, the younger, was in his lifetime, and his estate is now accountable. The complainant consequently prays that, unless the particulars and descriptions of items composing the said unaccounted for residue, be otherwise ascertained, this excess in value may be

deemed and taken to represent its amount, and that the same, according to such mode of computation as the court may deem proper, be charged in account against the said Daniel Man, the younger, or his estate, and in favor of the estate of the said Daniel Man, the elder.

Under all the foregoing heads, and generally in the taking of the account hereinafter prayed, the complainant asks the benefit, as far as may be consistent with equity and good conscience in the premises, of all and every legal and equitable presumption that under the facts and circumstances may properly arise against the said Daniel Man, the younger, as a party who, in violation of his duty to preserve evidence, has fraudulently destroyed, removed, concealed, suppressed, or falsified the same.

Forasmuch as the complainant, under the general prayer for an account, &c., and the prayer for general relief hereinafter contained, or one of these prayers, would have been entitled to the relief to which his title has been hereinbefore specified under several particular heads, he prays that if, in any such case or cases, the proofs vary from his foregoing allegations, the said prayer for general relief, or for an account, &c., may avail him in like manner, as if there had not been any such particular specification.

§ 62. Interrogatories.

To the end, therefore, that the defendants may, if they can, show why the complainant should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written, they are respectively required to answer; that is to say:—

Interrogatory 1. Whether the said Daniel Man, the elder, did not die a widower at the time aforesaid, or when; of the age aforesaid, or of what age; leaving issue two sons, namely, the said Daniel Man, the younger, and the complainant, then respectively of the ages aforesaid, and a grandson, the said Daniel Man King, then of the age aforesaid, or of what age; and whether, from the time aforesaid, or from what time, the said Daniel Man, the elder, had not, until his death, been the guardian of the said Daniel Man King, appointed as aforesaid, or in some other manner, and how?

Interrogatory 2. Whether the writings aforesaid, purporting to be the last will of the said Daniel Man, the elder, and codicil thereto, were not proved in the manner and at the time afore-

said; and whether the exhibits annexed as copies are not true copies of the same; and whether letters testamentary thereof were not granted as aforesaid to the said Daniel Man, the younger, and whether he did not thereupon assume upon himself the said executorship, and prepare, complete, and file as aforesaid the said inventory, so called, of the said Daniel Man, the elder's, estate; and whether an appraisement, so called, of the subjects thereof was not made as is hereinbefore averred. Whether the exhibits annexed, purporting to be copies of the said inventory and appraisement, so called, are not true copies of the same; and whether the actual value of the subjects thereof exceeded a tenth or a ninth, or some and what other small proportion of their nominal aggregate amount or value, as they are summed up at foot thereof?

Interrogatory 3. Whether, on the day on which the said so called inventory and appraisement were so filed, or about that day, and when the complainant, ignorant of the death of his said father, did not arrive at New York from California, as aforesaid; and whether the said Daniel Man, the younger, did not, from that time until his own death, conceal from him their father's death, and keep him in ignorance thereof, as is hereinbefore averred?

Interrogatory 4. Whether the complainant had not, in September, 1835, or when, commenced a seafaring life; and had not from that time until his arrival, aforesaid, at New York, from California, been absent from Philadelphia, where his said father lived, except on a few occasions, each time for a brief period, as is hereinbefore stated; and whether he ever saw his said father after the year 1840; and whether in March, 1852, the month succeeding that of his arrival at New York, from California, as aforesaid, he did not go to Europe, and remain there until after the death of the said Daniel Man, the younger?

Interrogatory 5. Whether the said Daniel Man, the younger, did not, on the 21st day of February, 1852, or about that time, and when, die very suddenly?

Interrogatory 6. Whether his will and two codicils thereto, were not proved, as aforesaid, on or about the 26th day of February, 1853; and whether the exhibit purporting to be a copy thereof, is not a true copy, and whether letters testamentary thereof were not thereupon granted to the defendants Paul and Jordan.

Interrogatory 7. Whether the exhibits annexed, purporting to be copies of the inventory and appraisement of the said Daniel Man, the younger's, personal estate, or pretended per-

sonal estate, are not true copies of the same, and whether the same were not filed, by his executors, in the said register's office, at the time and in the manner hereinbefore averred?

Interrogatory 8. Whether at or about the same time, or at some other, and at what time, letters testamentary of the said writings, purporting to be the will of the said Daniel Man, the elder, and codicil thereto, were not granted by the said register to the defendant Jordan, as successor of the said Daniel Man, the younger, in that executorship? And whether the said Jordan did not thereupon assume upon himself the burden of the said executorship?

Interrogatory 9. Whether on or about the 9th day of March, 1853, or when, the defendant Hays was not appointed, as aforesaid, guardian of the said Daniel Man King, and did not accept the said guardianship? Whether the said guardianship had not been vacant since the death of the said Daniel Man, the elder, and whether the said Daniel Man King was not then and had not been for twelve years, or thereabouts, or for some other, and what length of time, at school in Bethlehem?

Interrogatory 10. Whether the copies of three letters, of February, 1853, annexed as exhibits, are not true copies of originals transmitted to and received by the complainant in Europe; one of them giving him the first information of his father's death, and of other matters mentioned in it; and whether, on receipt thereof, the complainant did not, in the spring of the year 1853, or when, come to Philadelphia?

Interrogatory 11. Whether any book or books of account of the said Daniel Man, the elder, existed or could be found at and after the death of the said Daniel Man, the younger, other than one check-book hereinbefore described, and the book hereinbefore designated as his income-book? And whether these two books are not in the possession and control of the defendants, or some one or more, and which of them, and producible? Whether there had not been former check-books, and other account books or papers which were then missing; whether the said extant check-book was not mutilated, as in this bill has been stated? Whether the alterations, falsifications, and erasures of entries in the said income-book, so called, hereinbefore specified, or any, and which of them, or any, and what others, not so specified, have not been made therein; and whether the said falsifications and erasures, or any, and which of them, were not made by the said Daniel Man, the younger, or by any, and what other, person or persons, as is known, or for any and what reason believed?

Interrogatory 12. Whether the said Daniel Man, the elder's

organs of sight and hearing and mental faculties were not, in his old age, greatly enfeebled; and was he not, at this period of his life, actuated or influenced by a strong aversion, or morbidly sensitive dislike of litigation and its incidents?

Interrogatory 13. Whether the several controversies and litigations, attendant and consequent upon the said Dyott's insolvency, and upon his indebtments aforesaid to the said Daniel Man, the elder, and the said Jacob Ridgway, respectively, and the said controversies and litigations with Drexel, and the said controversies and litigations attendant and consequent on the prosecution of the said original and derivative claims upon Peisch's estate, and the said controversy and litigations with Griswold, and the said controversies and litigations, &c., attendant and consequent upon the prosecution of the said claim upon the United States in right of Sibbald, and on the said funds received or held in deposit, or otherwise, at Washington and in Philadelphia under the said act and resolution of Congress in the case of the said Sibbald, and other controversies and litigations hereinbefore mentioned, did not respectively take place as is hereinbefore alleged and set forth; or, if not, in what respects did they not take place, or in what respects did they take place differently?

Interrogatory 14. Whether the several writings, purporting to be powers of attorney, of the 7th of April, 1847, and 8th of April, 1848, respectively, whereof copies are hereto annexed, as exhibits, were not filled up and engrossed as aforesaid by the said Daniel Man, the younger, and subscribed by the said Daniel Man, the elder, at the respective times, and in the manner hereinbefore mentioned, or how and when; and whether the said exhibits are not respectively true copies thereof; and where, and in whose possession are the originals? Whether the said Daniel Man, the younger, did not from their respective dates, or from about these dates, and from what time, exercise, under the powers and provisions contained in them, a general agency, or some and what agency of the affairs and business of the said Daniel Man, the elder? Whether, from the year 1842, or from some, and what other time, long prior to the date of the first of them, he had not held and exercised such an agency, or some, and what agency, under the said Daniel Man, the elder, of his affairs and business, and a general or particular care and agency, and what care or agency of such litigated or controversial dependencies as he, the said Daniel Man, the elder, was concerned or interested in?

Interrogatory 15. Whether the Sheriff of Philadelphia County did not, by the said deed of the 23d of March, 1839, convey

to the said Daniel Man, the elder, and his heirs, in the manner and under the proceedings aforesaid, the said real estate in Kensington for $3,000, subject to the two mortgages aforesaid, on which there was then due $17,000, or thereabouts; of which mortgages the said Daniel Man, the elder, to whom they had been assigned, afterwards entered satisfaction as aforesaid? Whether the said purchase at sheriff's sale was not made, and sheriff's deed received by him under an arrangement with the said Ridgway, of which the effect was declared in the said articles between them of 23d April, 1839? Were not the said articles made and executed, and is not the exhibit, purporting to be a copy of the same, a true copy thereof?

Interrogatory 16. Whether the legal estate of and in the premises, which were the subject of the said articles, was not conveyed by the said Daniel Man, the elder, to the said Daniel Man, the younger, by the deed of 2d February, 1843, of which a copy is herewith exhibited; and did not the said Daniel Man, the younger, afterward make and execute the declaration of trust of 6th January, 1848, of which also a copy is herewith exhibited, and whether the said exhibits are not true copies of the same respectively?

Interrogatory 17. Whether the account of the said trust was not stated and settled by the said Daniel Man, the younger, with the executors of the said Ridgway, in January, 1848; and whether the said Daniel Man, the younger, did not thereupon receive from them $10,028 $\frac{74}{100}$, or some, and what other amount of money as the balance of the said account, and subscribe a receipt and acquittance for the same; and whether the exhibit, purporting to be a copy of the said account, settlement, and receipt, is not a true copy of the same?

Interrogatory 18. Whether the "principal debt, $8,000," in the said account and settlement specified, was not the same $8,000 mentioned in the said articles of 23d April, 1839, as remaining due to the said Daniel Man, the elder; and whether it was not, with $106 $\frac{66}{100}$, as interest thereon, included in the said amount of $10,028 $\frac{74}{100}$, received as aforesaid by the said Daniel Man, the younger, in January, 1848; and whether the said Daniel Man, the younger, ever paid or accounted for the same, or for any part thereof, to the said Daniel Man, the elder, and, if so, when, where, and how?

Interrogatory 19. Whether the said Daniel Man, the younger, had not theretofore deducted from the rents of the said premises, as in the said account is stated, interest accruing, and former interest accrued, on the said $8,000; and from time to time ac-

counted to the said Daniel Man, the elder, for, and paid to him the said accruing interest so deducted as aforesaid, as interest on the said $8,000, or some, and what yearly or half-yearly amounts of such interest, and enter the same in the said income-book, as money of the said Daniel Man, the elder?

Interrogatory 20. Whether the said Daniel Man, the younger, did not fail to account for, or pay to the said Daniel Man, the elder, some, and what portion or portions of the said accruing interest, and the whole or some, and what portion or portions of the said former interest accrued; and conceal from the said Daniel Man, the elder, the fact of its having been deducted as aforesaid from the said rents?

Interrogatory 21. Whether the said $\$10{,}028\frac{74}{100}$, and $\$385\frac{38}{100}$, or some, and what other amount in hand from collections of rents, together $\$10{,}414\frac{18}{100}$, or some, and what other amount of money received and retained by the said Daniel Man, the younger, on the said settlement with the executors of Ridgway, include $\$2{,}304\frac{96}{100}$ therein mentioned, or some, and what other sum of money therein described as "balance attorney's fees." Had not the charges in reimbursement of which the said deduction was made, been theretofore paid by the said Daniel Man, the elder, or with his funds; and was not the said Daniel Man, the younger, accountable for the same; and has he paid, or in any manner accounted for the same, or any part thereof; and if so, when, where, and how; state particularly?

Interrogatory 22. Whether the said Daniel Man, the younger, did not, after the said settlement, from time to time, pay moneys to the said Daniel Man, the elder, as interest on the said $8,000, under the pretence or allegation that it was interest accrued thereon deducted from rents of the said premises as the same had formerly been deducted therefrom. Whether in truth any such money was received from the said executors of Ridgway, or deducted from the said rents after January, 1848; and whether the said money was not paid to the said Daniel Man, the elder, for the purpose of keeping him in ignorance of the fact that the said $8,000 had been received by the said Daniel Man, the younger, on the said settlement; and whether the said Daniel Man, the younger, did not enter the said payments in the said income-book as such interest received, and as money of the said Daniel Man, the elder?

Interrogatory 23. Whether $5,000, or some, and what other part of the money so received on the said settlement, or other money of the said Daniel Man, the elder, was not invested by the said Daniel Man, the younger, in his own name, in the bond

and mortgage, dated 13th January, 1848, for $5,000, mentioned in the said inventory of the estate of Daniel Man, the younger? What interest on the said mortgage debt was received by the said Daniel Man, the younger, in his lifetime, or has been received by his executors since his death?

Interrogatory 24. Whether the said Daniel Man, the elder, did not, on or about the 19th day of March, 1845, or when, subscribe his name opposite to the seal of the writing of that date, of which a copy is herewith exhibited, purporting to be a transfer of his right and interest in the said estate of Peisch, to the said Daniel Man, the younger; and whether the said exhibit is not a true copy of the same?

Interrogatory 25. Whether there was any, and if any, what consideration for such transfer or pretended transfer of the said right and interest in Peisch's estate, or any and what mutuality or reciprocity of benefit or advantage attendant upon or derivable from the same, or any and what circumstances or circumstance to rebut the presumption of undue influence, fraudulent breach of confidence and unfair advantage taken, arising or resulting from the relation of the parties towards each other, and from the character of the act in question?

Interrogatory 26. Whether the writing of 24th March, 1845, of which a copy is herewith exhibited, was not subscribed by the said Daniel Man, the younger, and the gentleman retained as attorney and counsel to prosecute the said claim on Peisch's estate; and whether the said exhibit is not a true copy of the same?

Interrogatory 27. Whether the writings, of which a copy is exhibited, purporting to be a transfer by the personal representative of the said Ritter, deceased, of the interest of the said Ritter's estate, in the said assigned estate of Peisch, and of an irrevocable power of attorney to receive the same, were not made, executed, and delivered; and whether the said exhibit is not a true copy of the same; and whether there was any, and what pecuniary or other consideration for such transfer?

Interrogatory 28. Whether the said Daniel Man, the elder, was not, originally, a creditor of the said Peisch, and interested in his assigned estate, as is hereinbefore alleged, and did not, before the date of the said writing of 19th March, 1845, acquire, by purchases and through transfers, the ownership of, or some, and what interest in, other, and what other, rights and interests in, or claims upon, the said assigned estate; and whether, after the date of the said writing of 19th March, 1845, the said Daniel Man, the younger, did not, with moneys of the said Daniel Man,

the elder, acquire by purchases and through transfers, or otherwise, the ownership of, or some interest in other, and what other such rights and interests, or claims upon, or in the same? State particularly, and in detail, all that you know or believe of and concerning any and every such acquisition or transfer, and the consideration for the same, and annex, where you can, full, true, and perfect copies of any and every writing making, or in anywise relating to any and every such transfer or transfers.

Interrogatory 29. Whether the said Daniel Man, the younger, did not at some time, and when, obtain from the surviving assignee of the said Peisch, a power of attorney to collect funds of the said assigned estate; and whether any and what collections were made under this authority?

Interrogatory 30. Whether the defendants, Jordan and Paul, or one of them, as executors or executor of the said Daniel Man, the younger, or as substituted assignees or assignee of the said Peisch, or under color of some and what other pretended authority, have not collected moneys, credits, property, and effects, of the said Peisch's assigned estate; and do not threaten and intend to collect other, and what other, outstanding credits, moneys or effects, awards or decrees, out of the said estate of Peisch, or securities or investments, derived or derivable therefrom?

Interrogatory 31. Whether the said Daniel Man, the younger, had not, and whether his executors have not now, in their possession or control, certificates of five per cent. funded debt of Pennsylvania, for together $16,496, or some and what other sum of money, and some and what other securities, funds, effects, or investments, in the name of the assignees of the said Peisch, or of one or more of them; and whether the same are general assets, or funds of the said Peisch's estate, or specifically appropriate and belonging to the right or interest of any and what party, claiming to be creditor or creditors thereof; and whether the defendants, or some of them, do not threaten or intend to collect or retain the same, or the proceeds thereof, or some part or parts thereof, as belonging to the estate of the said Daniel Man, the younger, and not of the said Daniel Man, the elder?

Interrogatory 32. Whether the defendant Earp was not, at the time aforesaid, or at some other time, and when, through the procurement of the said Daniel Man, the younger, or in some and what other mode, appointed a substituted trustee, in the place of the said Nartigne, of the said Foussat's assignment aforesaid to him, and likewise assignee in insolvency of the said

Foussat, as aforesaid; and whether, through the procurement of the said Daniel Man, the younger, or in some and what other manner, the grant of letters of administration of the estate of the said Foussat to the defendant Hand, was not made, by this said register, at the time aforesaid, or at some other time, and when? Whether the said Griswold was not afterwards impleaded as defendant in the six several actions or proceedings aforesaid, at the suit of the said Earp and Hand respectively? Whether the purpose of all, or of some and which, of the said proceedings against the said Griswold, was not the recovery of $\$13{,}768\frac{21}{100}$, or of $\$12{,}560\frac{38}{100}$, or of some and what other amount of money, as dividends received from the Columbian Insurance Company aforesaid, or the trustees or assignees of this Corporation, on account of its indebtment to the said Foussat or his estate, with interest from the time of the receipt of such dividends? Whether the action or intervention of the said Daniel Man, the younger, in these proceedings, was not in right or on behalf of the said Daniel Man, the elder, or his estate? Whether the said Daniel Man, the younger, had any, and if any, what right or interest of his own in the said proceedings, or any, and which of them; and if so, when and how was such right or interest acquired or derived? Whether the said suits are not prosecuted, or ought not of right to be prosecuted, wholly, or to some and what extent, for the use and benefit of the estate of the said Daniel Man, the elder, as creditor of the said Foussat, secured under the trusts of his assignment aforesaid to Nartigne, and under his assignment aforesaid in insolvency, or under one of the said assignments; and whether any, and if any, what other person or party is in any manner, and how, interested or concerned therein?

Interrogatory 33. Whether the said Daniel Man, the elder, under the certificates of appropriation of the said Charles F. Sibbald, made and transferred as aforesaid, and in right of the notes thereby secured, or in some and what other manner, was not interested in the fund received, as aforesaid, in the spring of 1849, from the treasury of the United States by the said Ingersoll and Dunlap? Whether the said Ingersoll and Dunlap did not, on the 13th of March, 1849, or at some and what other time, transmit to the said Daniel Man, the elder, the letter of that date, of which a copy is herewith exhibited; and whether the said exhibit is not a true copy of the same? Whether the account aforesaid of the said Ingersoll and Dunlap was not filed, as aforesaid, and audited; and whether the auditor did not first meet, or hear, or receive, parties interested therein, or claiming so to be, on the 14th of May, 1849, or at some and what other time?

Interrogatory 34. Whether the said Daniel Man, the elder, did not, on the 12th day of May, 1849, or at some and what other time, subscribe his name opposite to the seal at foot of the writing of that date, of which a copy is herewith exhibited, purporting to be a transfer of all his right and interest in the estate of Matthew C. Ralston, deceased, and the said Charles F. Sibbald, or either of them, or from the trust estate created by the said Sibbald, or from his trustees therein named; and whether the said exhibit is not a true copy of the same?

Interrogatory 35. Whether there was any, and, if any, what consideration for the transfer, or pretended transfer, in the last interrogatory mentioned; or any, and, if any, what mutuality or reciprocity of benefit or advantage attendant upon or derivable from the same, or any and what circumstances or circumstance to rebut the presumption of undue influence, fraudulent breach of confidence, and unfair advantage taken, arising or resulting from the relations of the parties towards each other, and from the character of the act in question?

Interrogatory 36. Whether, on the final result of the legal proceedings aforesaid, upon the said account, the said Daniel Man, the younger, did not, on the 30th of June, 1852, or at some and what other time, receive, as the net amount or value of the fund which was the subject of the said account, with its increase and accumulation, $\$12{,}399\frac{69}{100}$, or some and what other amount, composed of the said $\$574\frac{69}{100}$, or some and what other amount in cash, and the said certificate for $10,000 of the said six per cent. funded debt of the United States, or made up or composed in some and what other manner? Whether the said certificate of funded debt for $10,000, of the then value $11,825, or of some and what other value, was not thereupon transferred to him by the said Ingersoll and Dunlap, and a new certificate for the same thereupon, or not long afterwards, and when, issued to him by the United States; and whether this is not the same certificate which, in the said inventory of the personal estate, or pretended personal estate of the said Daniel Man, the younger, is described as "$10,000 U. S. loan, six per cent., "1867, valued at 11,800."

Interrogatory 37. Whether the said Daniel Man, the elder, was not, at and before the date of the deed or pretended deed of 7th June, 1849, of which a copy is herewith exhibited, the owner of the unimproved real estate in the city and county of Philadelphia therein described; and whether he did not, on the day last mentioned, or at some, and what, other time, subscribe his name opposite to the seal at foot of the same; and whether the said exhibit is not a true copy of the same?

Interrogatory 38. Whether there was any, and, if any, what, consideration for the conveyance or pretended conveyance purporting to be made by the deed or pretended deed in the last interrogatory mentioned, or any, and, if any, what, mutuality or reciprocity of benefit or advantage attendant on, or derivable from the same; and whether there were any, and, if any, what, circumstances or circumstance to rebut the presumption of undue influence, fraudulent breach of confidence, and unfair advantage taken, which, if the said deed or pretended deed were otherwise effectual, according to its purport, would have arisen or resulted from the relations towards each other of the parties thereto, and from the nature and character of such act?

Interrogatory 39. Whether any, and, if any, which, member of the family of the said Daniel Man, the elder, other than the said Daniel Man, the younger, ever had any knowledge of the existence of this deed or pretended deed until after the death of both of them, the said Daniel Man, the elder and younger; and, if so, state particularly when, where, and how was such knowledge communicated or acquired, as you know, or, for any, and what, reason, believe?

Interrogatory 40. Whether, as between the said Daniel Man, the elder, and Daniel Man, the younger, this deed or pretended deed ever took effect as a subsisting conveyance, according to its purport? And, if so, state particularly when, where, and how such taking effect thereof was witnessed, indicated, or made apparent in any such manner as to constitute the cause or foundation of your belief that it so took effect.

Interrogatory 41. Whether, in September, 1849, or at some, and what, other time, after the date of the said deed or pretended deed, a negotiation was not, with the knowledge and acquiescence of the said Daniel Man, the younger, pending between the said Daniel Man, the elder, or the said Daniel Man, the younger, on his behalf, and the said David Paul Brown, or some, and what, other person, for the sale and purchase of the lot of ground on Mulberry or Arch Street, one of the subjects of the said deed or pretended deed; whether, in this negotiation, the said Daniel Man, the elder, was not, with the knowledge and acquiescence of the said Daniel Man, the younger, treated with as the owner of the said lot of ground; and whether letters addressed to him, the said Daniel Man, the elder, were not indorsed by the said Daniel Man, the younger, with their dates, and filed among the papers of the business of the said Daniel Man, the elder; whether such letters, or some, and which, of them, are not in the possession or control of the defendants, or of some, and which one or more, of them? If so, the defendants in possession or con-

trol of them are requested to annex them, or true copies of them, to their answers, including, in the case of copies, true copies of the said indorsements, and stating in whose handwriting are the originals of such indorsements.

Interrogatory 42. Whether, in the month of November, 1849, or at some other time, and when, this lot of ground was not sold by the said Daniel Man, the elder, and, on or about the 22d of that month, or at some, and what, other time, conveyed by him to the said Elijah Vansickel and his heirs, or to some, and what, other purchaser or purchasers in fee; whether the said Daniel Man, the younger, did not, as agent, and on behalf, of the said Daniel Man, the elder, and in the name of the said Daniel Man, the elder, intervene, participate, and acquiesce in this conveyance thereof, by the said Daniel Man, the elder, in his own name, and intervene in the transactions attendant upon this sale and purchase; and whether, in all the course of these transactions, the said Daniel Man, the younger, ever alleged or pretended property in himself in the subject thereof? If he ever so pretended or alleged property in himself, state particularly when, where, and how such allegation or pretence of property in himself was made or suggested, as you know, or, for any, and what, reason, believe.

Interrogatory 43. Whether the consideration of the last-mentioned sale was not $13,500, or some, and what, other amount of money, and was not, on the 24th of November, 1849, or at some, and what, other time, deposited in bank to the credit of the said Daniel Man, the elder, by the said Daniel Man, the younger, as his agent, or with his, the said Daniel Man, the younger's, assent and privity, and was not by him, the said Daniel Man, the younger, on that, or on some, and what, other day, entered with his own handwriting in the check-book of the said Daniel Man, the elder, as "Cash, $13,500;" whether taxes, to the time of sale, on the premises thus sold, 88\frac{75}{100}$, and broker's commission for effecting the sale, $135, were not paid out of the said purchase-money, or out of other moneys of the said Daniel Man, the elder, in bank, by checks, which were entered in his, the said Daniel Man, the elder's, check-book, by the said Daniel Man, the younger; whether the said broker did not, on the same, or on some, and what, other day, subscribe in the receipt-book of the said Daniel Man, the elder, the receipt for the said commission on the said sale, as paid by him, the said Daniel Man, the elder; and whether the said receipt was not of the purport or effect hereinbefore set forth, and was not wholly in the handwriting of the said Daniel Man, the younger; whether $3,015 of the said purchase-money, or some, and what, other amount thereof, was not, on the 6th of December, 1849, or at

some, and what, other time, applied in discharge of the balance of principal and interest of the said Daniel Man, the elder's, mortgage debt to the Philadelphia Saving Fund; and whether other $9,913\frac{75}{100}$ of the said purchase-money, or some, and what, other portion or amount thereof, was not afterwards, in the said month of December, 1849, or at some other time, and when, invested in the purchase of $11,000 five per cent. funded debt of Pennsylvania; and whether the certificate for this $11,000, funded debt of Pennsylvania, was not in the name of the said Daniel Man, the elder; and whether the semi-annual interest afterwards accrued thereon was not from half-year to half-year, until the sale thereof, received by the said Daniel Man, the elder, or in his name and for his use; whether some of the receipts of the said half-yearly interest, with that of other funded debt of Pennsylvania, were not, by the said Daniel Man, the younger, entered in the said income-book of the said Daniel Man, the elder, as his, the said Daniel Man, the elder's, money; whether these entries, or some, and which, of them, were not, after the death of the said Daniel Man, the elder, or at some other time, and when, falsified, erased, and altered, as aforesaid; and whether the said check-book for December, 1849, was not mutilated, as aforesaid? The defendants are requested to answer, and state whether they know, or, for any, and what, reason or reasons, have any, or what, belief, by whom the said falsifications, erasures, alterations, and mutilations were made, and for what purpose, object, or intent; and likewise to state in whose possession or control they believe the said check-book and income-book were when thus, respectively, falsified, erased, altered, and mutilated, as is known, or, for any, and what, reason, believed.

Interrogatory 44. Whether the receipts for taxes on other items of property, included in the same deed, or pretended deed, of 7th June, 1849, were not from time to time after its date, written by the respective collectors in the receipt-book of the said Daniel Man, the elder; and whether the said Daniel Man, the elder, did not pay the same as taxes on his own property through the agency, or with the knowledge and acquiescence of the said Daniel Man, the younger. Whether the checks of the said Daniel Man, the elder, given in payment for the same, were not in some, and in what instances, entered in the check-book of the said Daniel Man, the elder, by and in the handwriting of the said Daniel Man, the younger, with specifications of the account for which it had been so paid. Whether there is not in the receipt-book of the said Daniel Man, the elder, a receipt for such a tax on the lot in Spring Garden, one of the subjects of the said deed or pretended deed; and whether

a corresponding entry in the said income-book was not afterwards erased with a knife, and by whom such erasure thereof was made, as the defendants for any, and what, reason believe, and whether the said book was not in the possession or control of the said Daniel Man, the younger, when this erasure was made, as the defendants know, or, for any, and what, reason, believe?

Interrogatory 45. Whether the lots on Schuylkill Second Street, in the said deed, or pretended deed, of 7th June, 1849, described and mentioned, or one of those lots, or some part of one of them, was not, at and before, and after its date, in the use and occupation of the said William Kirk, under a demise for a term of years or from year to year, from the said Daniel Man, the elder, at the yearly rent aforesaid, payable half-yearly, as aforesaid? Whether before its date, the said Daniel Man, the younger, had not, as agent of the said Daniel Man, the elder, collected and received the said rents thereof half-yearly, from the said William Kirk? Whether, after its date, he did not continue to receive the said half-yearly rent from the said William Kirk, and, on so doing, did not, in July, 1849, and January and July, 1850, respectively, for the half year's rent, due on the first of each of these months respectively, subscribe the three several receipts, or two, or one, and which of them, whereof copies are herewith exhibited, each signed "Daniel Man, by his attorney in fact, Daniel Man, Jr.;" and whether the said exhibits are not true copies of the same?

Interrogatory 46. What is the value, as the respondents know or believe, of the unsold subjects of the said deed, or pretended deed, of 7th June, 1849; and what their condition, respectively, as to productiveness of income in the probability of expenditures to be incurred by retaining the same? What facts or considerations, as they know or believe, exist or apply from which the court may be enabled to decide upon the expediency of directing or prohibiting the sale or disposition of the same during the pendency of this or other litigation?

Interrogatory 47. Whether, under color or pretence of an authority in the will of the said Daniel Man, the younger, the defendants, Jordan and Paul, have not converted part, and how much, of the personal estate of the said Daniel Man, the younger, into real estate, by the purchase or acquisition of some, and what land, adjacent to the said lots of ground on Walnut and Schuylkill Second Streets, or adjacent to one, and which of the said lots, and on what terms and conditions, &c.? The said defendants are requested to state whether any, and what deeds, writings, conveyances, and assurances were there-

upon made or executed, and to annex the same, or true copies thereof to their answers.

Interrogatory 48. Of what other real estate the said Daniel Man, the elder, died the owner, and the present situation, condition, and value, and annual income and expenditure of the same, and everypart thereof?

Interrogatory 49. Whether in the year 1842 and subsequent years, the said Daniel Man, the younger, did not board and lodge free of charge in the house of the said Daniel Man, the elder; and, from time to time, receive from him divers and what sums of money, by way of gift, advancement, or otherwise? Whether the said payments, or other, and what, payments, by the said Daniel Man, the elder, to the said Daniel Man, the younger, were not in some, and in what cases, entered by one or the other, or both of them, in the said check-book and income-book, or in, and which one, of these books? If so, annex to your answers true copies of all such entries, notes, or memoranda as indicate or refer to payments by the former to the latter. The defendants, in their answers, will please further to particularize all sums of money or items which, in the clause of the said will of the said Daniel Man, the elder, containing his primary devise of one-third of his estate to the said Daniel Man, the younger, might have been subjects of the words "this over and above what I have already given to him."

Interrogatory 50. Whether the said deed, or pretended deed, of 7th June, 1849, did not remain unrecorded until the 31st of December, 1851, a fortnight or thereabouts before the death of the said Daniel Man, the elder? Whether the said Daniel Man, the elder, was not then at the point of death, or regarded so to be? Had the said Daniel Man, the younger, theretofore produced, exhibited, or made known its existence? If so, state particularly when, where, to whom, and how.

Interrogatory 51. Whether the real estate of the said Daniel Man, the elder, beyond the limits of Philadelphia County, did not consist of unseated lands, or lands of which the greater portion were unseated, situated in other counties of this commonwealth, and of what lands did the same consist? Whether the same were not under the care of local or other, and what agents? Whether during the agency of the said Daniel Man, the younger, of the affairs and business of the said Daniel Man, the elder, divers and what payments and remittances, from such agents, or otherwise derived from proceeds or avails of such lands, did not come into the hands, possession, or control of the said Daniel Man, the younger, as such agent; and whether

he ever paid the same to the said Daniel Man, the elder, or otherwise accounted to him for the same, or any, and what part or parts thereof; and if so, when and how?

Interrogatory 52. Whether the said principal sum of $3250, of the said Daniel Man, the elder, invested in the said bond and mortgage of Joseph Purvis, in two items, one of $600, the other of $2650, or in some, and what other manner, and interest thereon, as aforesaid, was not received by the said Daniel Man, the younger, as agent, as aforesaid, and for the account and use of the said Daniel Man, the elder? Whether the said Daniel Man, the younger, ever paid over or accounted for the same to the said Daniel Man, the elder, or appropriated or applied the same to his use; and, if so, when, where, and how?

Interrogatory 53. Whether, in the six years 1846 to 1851, inclusive, the excess of the receipts of income of property of the said Daniel Man, the elder, as entered in the said income-book, above his expenditures of all sorts, was not $8,687\frac{89}{100}$, or some, and what other large amount of money, over and above what was not entered in this book; and whether the same and other, and what other amounts were not received by the said Daniel Man, the younger, as agent of the said Daniel Man, the elder, and for his account and use? Whether the said Daniel Man, the younger, paid over or accounted for the same, or any part thereof, to the said Daniel Man, the elder, or appropriated or applied the same, or any part thereof, to his use; and, if so, when, where, and how; answering particularly and in detail?

Interrogatory 54. Whether, in the last year of the life of the said Daniel Man, the elder, or at some, and what other time or times, his two stores on lots of ground on Delaware Second Street aforesaid, and shop on his lot of ground on Quarry Street, were not rebuilt with his funds by the said Daniel Man, the younger, as his agent, at a cost and expenditure of $13,303\frac{46}{100}$ in the aggregate, or of some, and what other aggregate amount? Whether the said Daniel Man, the younger, under the pretence or allegation that moneys for defraying the cost of the said improvements must be raised by disposing of funded debt and other stocks of the said Daniel Man, the elder, or through some, and what other pretence or allegation, or in some, and what other mode, did not procure the said Daniel Man, the elder, to execute, and whether the said Daniel Man, the elder, did not execute what purported in some cases to be transfers of such stocks and funded debt, and in other cases to be letters of attorney, authorizing in each case an attorney, whose name left in blank might afterwards be inserted, to sell and transfer the same to himself, or to any other person or persons? Whether,

under authority, or color or pretence of authority, derived from such writings or acts, or some, and which of them, or from the said writings of 1847 and 1848, purporting to be letters of attorney, or one, and which of them, the said Daniel Man, the younger, did not, in the said last year of the life of the said Daniel Man, the elder, make real or pretended sales, or dispositions of the said funded debt and other stocks, or dispose of or convert the same to his own use to amounts and values exceeding to a vast extent, and to what extent, the whole cost of the said improvements, whether such excess be defined or computed with or without reference to the various sums of money from other sources which would have been in hand for the purpose of defraying the cost of the said improvements, if the said Daniel Man, the younger, had not been dishonest and unfaithful in respect of other subjects of his said agencies?

Interrogatory 55. Whether, under color or pretence of some such authorities or authority, as in the last interrogatory specified, or under some other pretence or allegation of authority, or without authority, the following funded debts, and other stocks of the said Daniel Man, the elder, were not in the last year of his life, or at some, and what other time or times sold, disposed of, or converted as is hereinafter mentioned by the said Daniel Man, the younger, or through his means, agency, or procurement? that is to say:—

Three thousand dollars six per cent. funded debt of Pennsylvania in March, 1851, or at some other time, for some price or prices, which the complainant prays may be stated in the answers.

One hundred and fifty shares of stock of the Doylestown Bank, in May or June, 1851, or at some, and what other time, for $3,150, or some, and what other price or sum?

Ten thousand dollars five per cent. funded debt of Pennsylvania, in or about June, 1851, or at some, and what other time, in three sales or otherwise, for prices amounting together to $9,362\frac{50}{100}$, or to some, and what other sum of money?

Two thousand dollars five per cent. funded debt of Pennsylvania, in or about November, 1851, or at some, and what other time, for some price or prices, which the complainant prays may be stated in the answers.

And whether the said Daniel Man, the younger, ever accounted for the proceeds of such sales or dispositions of the said funded debt and other stocks, or any, and which of them; and, if so, when, where, and how?

Interrogatory 56. Whether, on the back of a letter from the cashier of the Doylestown Bank, the said Daniel Man, the elder,

had not made a memorandum of the number of shares of this stock which he had acquired; and whether, under this memorandum, the said Daniel Man, the younger, did not at some time after the said sale, and when, write "sold, in May, 1851, to build stores on 2d St.;" and whether the said letter, memorandum, and writing at foot thereof, are not in the possession or control of the defendants, or some, and which of them?

Interrogatory 57. Whether, in July, 1851, or at some, and what other time, the said Daniel Man, the younger, did not, with funds of the said Daniel Man, the elder, derived from sales of the said funded debt and other stocks, or some of them, or with other funds of the said Daniel Man, the elder, buy six bonds of the Camden and Amboy Railroad Company for $1,000 each, payable to bearer with coupons as aforesaid, at the cost in the whole of $\$5{,}847\frac{50}{100}$, or of some, and what other amount of money; and whether the said six bonds were not in the possession or control of the said Daniel Man, the younger, at the time of the death of the said Daniel Man, the elder, and whether the said Daniel Man, the younger, did not shortly afterwards, and when, sell the same for prices of which the complainant prays that the amounts may be stated in the answers; and whether the said Daniel Man, the younger, had not in the mean time received divers, and what amounts of money from coupons of the same; and whether he ever accounted to the said Daniel Man, the elder, or his estate, for the said bonds and coupons, or the proceeds, amounts, or value thereof, or any part thereof; and, if so, when, where, and how? answering particularly.

Interrogatory 58. Whether, in or about July, 1851, or at some other time, and when, the said Daniel Man, the younger, did not, with funds of the said Daniel Man, the elder, derived from the said sales of funded debt and other stocks, or some of them, or with funds of the said Daniel Man, the elder, derived from some other source or sources, buy one hundred shares of the stock of the Philadelphia, Germantown, and Norristown Railroad Company for $\$3{,}834\frac{95}{100}$, or some, and what other amount of money? Whether the said Daniel Man, the elder, was not then the owner of, and had not for a long time owned, other twelve shares of the stock, and $1500 of the funded debt or loan of the said company; the said twelve shares, and $1500 loan standing in his own name? Whether the said Daniel Man, the younger, under authority, or color of authority, of a letter of attorney, such as aforesaid, or of some, and what other power authorizing, or purporting to authorize him in that behalf, did not, at or about the time of the purchase aforesaid of one hun-

dred shares of the said stock, transfer the said twelve shares and $1500 loan from the name of the said Daniel Man, the elder, to himself, the said Daniel Man, the younger, and into his own name? Whether the said Daniel Man, the younger, did not by these, or by some, and what other means obtain certificates to himself and in his own name for 112 shares of the said stock, and $1500 of the said loan; and whether these are not the same 112 shares of the said stock, and $1500 of the said loan, which are in the said inventory of the estate or pretended estate of the said Daniel Man, the younger, specified as portions of his estate?

Interrogatory 59. Whether, over and above the aggregate of all amounts chargeable against the said Daniel Man, the younger, or his estate in favour of the said Daniel Man, the elder, or his estate under the several particular heads of complaint in this bill specified, and values of all items in the said inventories of the estates or pretended estates of the said Daniel Man, the elder, and Daniel Man, the younger, specified, the said Daniel Man, the elder, was not, at and before, and after the commencement of the said Daniel Man, the younger's, agency of his affairs and business, the owner, to a great amount and value, of property, securities, investments, moneys, effects and credits, which were in the possession, and under the control of the said Daniel Man, the younger, as such agent, and what were the description and particulars, as well as values of the several items composing such excess over and above such aggregate; or, if the particulars and description thereof are unknown, or cannot be stated, then, what was the value of the said excess over and above such aggregate, so far as the same is or may be in whole or in part known or computed, or computable through footings of the said income-book, or former aggregates of capital, or income, or otherwise howsoever? answer fully and particularly, not merely from actual knowledge, but likewise from belief, estimation, or calculation, as far as may be practicable.

§ 63. Prayers for special and general relief.

And that the said mortgage security of 12th January, 1848, for five thousand dollars, with interest, or proceeds, avails, or amount thereof, if paid or collected, or any substituted investment that may stand in its place, may, by the decree of this court, be ascertained to belong to the estate of the said Daniel Man, the elder, and not to the estate of the said Daniel Man, the younger; and that the estate of the said Daniel Man, the younger, may be charged with the said $\$10{,}028\frac{74}{100}$, received from the executors of the said Ridgway, in January, 1848, and $\$385\frac{38}{100}$, arising from rents then in hand, and retained as afore-

said, together $10,414\frac{12}{100}$, or such other sum or amount as may be properly ascertained; less the deduction of the said mortgage security of five thousand dollars, if ascertained, as aforesaid, to belong to the estate of the said Daniel Man, the elder, and the deduction of such part or the whole of the said $2,317\frac{47}{100}$, received as due to counsel as aforesaid, as may then have been a still outstanding and unpaid indebtment to counsel, or may otherwise be a proper subject of deduction; and may be charged with such interest on the principal sum of $8,000, aforesaid, as may appear to have been received and misapplied by the said Daniel Man, the younger; AND THAT the amount of $20,889\frac{41}{100}$, aforesaid, including as well the said $3,857\frac{23}{100}$, as the said $17,032\frac{18}{100}$, or such other sum or amount, or value, as may be ascertained to have been received, or receivable from the estate of the said Peisch, and such further amounts as may have been received, or may be receivable from that estate, under transfers or assignments, such as aforesaid, &c., may be ascertained to belong to the estate of the said Daniel Man, the elder, and not to the estate of the said Daniel Man, the younger; and that the whole of the said certificates of five per cent. funded debt of Pennsylvania, in the name of the assignees of the said Peisch, or such part of them or of their value as may be just and equitable, and that the other outstanding credits, property, and effects aforesaid of the said Peisch's estate, or such part of them, or their value, as may be just and equitable, may be ascertained and appropriated in part of the said $20,889\frac{41}{100}$, or otherwise, as specifically belonging to the estate of the said Daniel Man, the elder; and that all accruing dividends and interest, &c. be appropriated in like manner; AND THAT the court will decree that the suits aforesaid against the said Griswold, for the recovery of the said $13,768\frac{21}{100}$, or $12,560\frac{38}{100}$, with interest, or such other amount or sum of money as may be demandable therein, shall be prosecuted for the use, benefit, and advantage, and any and every recovery therein enure, for the use, benefit, and advantage, of the estate of the said Daniel Man, the elder, and not of the estate of the said Daniel Man, the younger; AND THAT the said certificate for ten thousand dollars, of six per cent. funded debt of the United States, Number 1,344, valued in the said inventory of Daniel Man, the younger's, estate, at eleven thousand eight hundred dollars, and all dividends accrued thereon, and proceeds or substituted investments of the same, be ascertained by the decree of this court to have belonged and to belong to the estate of the said Daniel Man, the elder, and not of the said Daniel Man, the younger; and that it be in like manner ascertained and decreed that the said fund received under the decree of the Supreme Court, in the said

case of Sibbald's estate, amounting, as aforesaid, to $12,399 $\frac{69}{100}$, or such other sum or amount as may be properly ascertained, less the value, properly ascertained, of the said certificate for $10,000, of United States six per cent. funded debt, if specifically decreed and allotted as aforesaid, belonged and belongs to the estate of the said Daniel Man, the elder, and is to be accounted for accordingly, by the estate of the said Daniel Man, the younger; AND THAT the said $13,500, proceeds of the said sale to Vansyckel, of the said lot of ground on Mulberry Street, be ascertained in like manner to have been money of the said Daniel Man, the elder, and not of the said Daniel Man, the younger, and that after allowance of all proper credits for expenses of the said sale, and for the payment of the said mortgage debt to the Philadelphia Saving Fund out of the said proceeds if so paid, the surplus or excess be charged accordingly; and that the said certificate for $11,000 five per cent. funded debt of Pennsylvania, purchased out of the said surplus or excess, may be ascertained as having been an investment of the same, and thus, in like manner, a part of the estate of the said Daniel Man, the elder; and that the proceeds of the subsequent sale thereof aforesaid, if not charged against him and his estate under another head, as hereinafter mentioned, be charged against him and his estate, under the present head; and that all the remaining subjects of the said pretended deed of 7th June, 1849, be ascertained and decreed to be, at law or in equity, the property of the heirs or devisees of the said Daniel Man, the elder, and not of the devisees of the said Daniel Man, the younger; and that the defendants, Jordan and Paul, be restrained by injunction, from selling or disposing of the same, or any part thereof, under any clause or clauses in the will of the said Daniel Man, the younger, purporting to authorize the sale or disposition thereof, and that the legal estate of and in the same be assured, by such conveyance or conveyances as the court may direct or approve, to the heirs, devisees, or legal representatives of the said Daniel Man, the elder; and if, before such final or other decree as may determine the rights of the parties under this head, the court, in order to promote the common interest of all parties, or the interest of the greater part of them, in number or amount and value, shall decree that the said defendants, and the defendant Jordan, under the clause in the said will of the said Daniel Man, the elder, authorizing or purporting to authorize the sale and disposition of his real estate, unite in conveying the same, without prejudice, &c., as is hereinbefore suggested, the proceeds of any such sale or sales, thus made under the court's direction, may be brought into court, or otherwise taken care of, invested, or appropriated under the court's direction, and that payment of the

same, and of the increase and accumulation thereof, may be awarded and decreed as of funds of the estate of the said Daniel Man, the elder, and not of the estate of the said Daniel Man, the younger; and that as to adjacent land on Schuylkill Second or Walnut Street, acquired or purchased, as aforesaid, by the defendants, Jordan and Paul, there may be the discovery investigated for ascertainment, election, and remedy, as aforesaid. AND THAT the amounts received by the said Daniel Man, the younger, as agent, as aforesaid, from sales of the said Daniel Man, the elder's, unimproved, or unseated, or other real estate, situated out of the limits of Philadelphia County, be ascertained, and that the same, including the said $550 and other moneys received from the said Bradford and other agents, be charged in account against the estate of the said Daniel Man, the younger, and in favor of the estate of the said Daniel Man, the elder. AND THAT the estate of the said Daniel Man, the younger, may, in like manner, be charged with the said principal sums of $600 and $2,650, received from the said Purvis, as aforesaid, and with such amounts of interest, received from the said Purvis, as have not been hitherto accounted for by the said Daniel Man, the younger. AND THAT the estate of the said Daniel Man, the younger, may be charged, in like manner, with the said $8,687\frac{89}{100}$, as the excess of income above expenditures received by him, and not accounted for, as aforesaid, and with such other sum or amount as may be properly ascertained as the further excess for which he was, and for which his estate is, accountable. AND THAT the estate of the said Daniel Man, the younger, may, in like manner, be charged with the proceeds of the sales aforesaid of $3,000 six per cent. and $12,000 five per cent. funded debt of Pennsylvania, including in the latter the said $11,000 mentioned under a former head, and with the proceeds, $3,150, or such other amount as may be ascertained to have been the proceeds of the said Doylestown Bank stock, and, if equity and good conscience, by reason of charges hereinafter prayed, require it, may be credited against the foregoing or some other proper charges, with $5,847\frac{50}{100}$ as the cost of the said bonds of the Camden and Amboy Railroad Company, and $3,834\frac{95}{100}$ as the cost of the said 100 shares in the Philadelphia, Germantown, and Norristown Railroad Company, or with such other amounts as may be ascertained to have been the cost of the said last-mentioned bonds and stock, respectively, and that the said bonds of the Camden and Amboy Railroad Company, and stock of the Philadelphia, Germantown, and Norristown Railroad Company, be ascertained, as aforesaid, to have belonged to the estate of the said Daniel Man, the elder, and that the estate of the said Daniel Man, the younger, be charged in favor of the estate of

the said Daniel Man, the elder, with the proceeds of the sale of the said bonds made after the death of the said Daniel Man, the elder, as aforesaid, and whensoever made, and the interest received on or for coupons thereof, and that, after the amount of expenditures incurred, as aforesaid, in making the said improvements of the real estate of the said Daniel Man, the elder, whether amounting to the said sum of $\$13{,}303\frac{46}{100}$, or to such other less or greater sum as may be ascertained to have been the true amount thereof, shall have been allowed as a credit to the said Daniel Man, the younger, against any charge or charges from which the same should properly be deducted, if he shall appear to have been entitled to any credit on this account, the balance or excess of his receipts, from the said sources, above such credit or credits, may be ascertained and charged against him and against his estate, in favor of the said Daniel Man, the elder, and his estate; and that the said 100 shares, and 12 former shares, together 112 shares, of stock of the Philadelphia, Germantown, and Norristown Railroad Company, and $1,500 loan of the said company, may be ascertained to belong to the estate of the said Daniel Man, the elder, and not to the estate of the said Daniel Man, the younger, and that his executors may be decreed to transfer the same to the personal representatives of the said Daniel Man, the elder, or as his personal representative may direct, or as the court may otherwise order. AND THAT the estate of the said Daniel Man, the younger, may be charged in favor of the said Daniel Man, the elder, with all amounts of capital for which the said Daniel Man, the younger, was accountable to him in his lifetime, or to his estate after his death, whether hereinbefore specifically or particularly mentioned or not; and that, in cases in which the description and particulars thereof are not hereinbefore specified, or may not be discoverable or ascertainable, the value of the same may be ascertained, computed, or estimated, as is hereinbefore suggested, or otherwise, as the court may direct. AND THAT, in all cases in which the said Daniel Man, the younger, or his estate, may be charged with any sum or sums of money, either under the last head or under any former or other head or heads of this bill, the computation of interest may be made in such a manner as to afford a proper indemnity to the estate of the said Daniel Man, the elder, and to the complainant; and that, where simple interest will not afford such an indemnity, the account hereinafter prayed may be taken with rests at proper intervals, and the conversion of interest into principal bearing interest, in such manner and with such effect as if the funds misapplied by the said Daniel Man, the younger, and converted wrongfully, by him, as aforesaid, to his own use, had accumulated by investment and rein-

vestment, and as if accruing income, as collected, had been from time to time invested in securities paying interest. AND THAT an account may be taken, under the direction of the court, of all and singular the premises, and all and every the subjects of charge and discharge aforesaid, and of all and singular the said agencies and trusts, express or implied, resulting or declared; and that, upon and under such account, all such proceedings may be had as may be required in order to compel the payment or transfer to the complainant, or to the defendant, Jordan, as executor of the said Daniel Man, the elder, of all moneys, funds, effects, and property which ought to be so paid or transferred. AND THAT the complainant may have such further and other relief as is hereinbefore particularly or otherwise prayed, specified, or suggested, under each and every one of the heads of complaint hereinbefore contained or mentioned. AND ALL SUCH FURTHER AND OTHER RELIEF, not hereinbefore specified, prayed, or suggested, as may be conformable to equity and good conscience.

May it please the court to award the process of the court directed to the said defendants, commanding them, and each of them, at a certain day, and under a certain pain, to be named therein, to be and appear in this court, there to answer in the premises, and to stand, perform, and abide such further order, direction, and decree therein, as to the court shall seem proper.

And the complainant will pray, &c.

CADWALADER,
for complainant.

NOTE.—The defendants Jordan, Paul, King, and Hays, are required to answer all the interrogatories. The defendants Earp and Hand, are required to answer the 32d, and so much of the 13th as refers to subjects of the 32d interrogatory. The other defendants are required to answer the 1st, 2d, 5th to 9th, inclusive; 13th to 18th, inclusive; 24th, 26th to 29th, inclusive; 32d, 33d, 34th, 36th, 37th, 42d, 45th, 46th, 48th, and 55th interrogatories.

EXHIBITS.

Exhibit 1.

Will and codicil of D. Man, Senior.

I, Daniel Man, of Philadelphia, State of Pennsylvania, do make this my Will.

I give and devise all my estate, viz: One-third to my son Daniel, and his heirs; this over and above what I have already given to him.

One-third to my son Daniel and his heirs, in trust, to receive the income, and pay the same into the hands of my son William; his own receipt alone to be a discharge; and to the use of his will; if he should die without a will, to the use of his heirs. Provided, however, that if it should be deemed proper by the said trustee to put William in possession of part, or the whole, said trustee may do so; but not otherwise. The remaining one-third I give to my grandson, Daniel, son of my deceased daughter, Jane, and his heirs; but if he should die without issue living at his decease, or without a will, then the whole of this third to go to my heirs.

I give to my housekeeper, Margaret Bowman, three hundred dollars. I appoint my son Daniel my executor. And whereas it may be proper to repair and to build upon some of my real estate: I authorize my said executor so to improve and to use my personal estate for said purposes. I give my said executor power to sell any part or parts of my real estate, and to reinvest in real estate, or to invest on interest, according to law, but always for the purposes of my will.

Witness my hand and seal, this 27th day of November, 1850.

DANIEL MAN. [SEAL.]

Signed, sealed, and declared as the will of Daniel Man, in our presence, who have, at his request, hereunto subscribed our names as witnesses thereto, in the presence of the said testator and of each other.

THOMAS MILLAR,
D. SCHENCK,
CHARLES WHEELER.

Nov. 27, 1850.

The devise to my grandson, Daniel, I revoke. I give said one-third to my son, Daniel, and his heirs, in trust, however, to receive the income thereof, and to appropriate of such income as much as he may think proper to the education and maintenance of my said grandson; and after his coming of age to pay, into his own proper hands, as much of said income as may, in the judgment of said trustee, be proper, upon his own proper receipt. The residue of said income to be improved, according to my will. Provided, however, that if at any time, and whenever it should be thought proper, in the judgment of my said trustee, to place my said grandson in possession of part or parts, or the whole of said third, he may do so; not otherwise; and the trust shall be ended. And from and after the decease of my said grandson, and as to the whole of said third, with its increase, if the trust should continue till his death, to the heirs of the body of my said grandson living at the time of his decease; and for default of such remainder, to my heirs. In the event of William, my son, and Daniel, my grandson, or either of them, being deceased at the time of my own death, then the share of such deceased to go to my surviving son and grandson, or sons, as the case may be, subject, nevertheless, as to my son William, and my grandson, Daniel, to the trusts created by my will. In the event of my son, Daniel, being deceased at the time of my death, then I direct that the share which I have devised to him be distributed in such manner and to such persons as he, by his last will, or by any writing in the nature thereof, may limit or appoint; and in default of such limitation and appointment, to the heirs of his body; and in default of such, to my heirs, subject to the trusts created by my will. In the event of my son Daniel's decease, the trusts of my will being incompleted, I appoint my friend, John Jordan, Junior, my executor and trustee. Witness my hand and seal, this 11th day of December, 1850.

DANIEL MAN. [SEAL.]

Signed, sealed, published, and declared, by the said Daniel Man, as and for a republication of his last will and testament, with this as a codicil, in the presence of us, who, at his request, have hereunto subscribed our names as witnesses thereto, in the presence of said testator and of each other.

THOS. MILLAR,
D. SCHENCK,
CHARLES WHEELER.

Dec. 11, 1850.

City and County of Philadelphia, *ss.*

Register's Office, Jan. 21, 1852.

Then personally appeared Thomas Millar, D. Schenck, and Charles Wheeler, the subscribing witnesses to the foregoing will and codicil of Daniel Man, deceased, and, on their affirmations and oaths, did say that they were present, and did see and hear Daniel Man sign, seal, publish, and declare the same as and for his last will and testament, and codicil thereto; and that, at the doing thereof, he was of sound, disposing mind, memory, and understanding, to the best of their knowledge and belief.

Thomas Millar,
D. Schenck,
Charles Wheeler.

Sworn, and affirmed, and subscribed before me the date above.

SAML. LLOYD,
Deputy Register.

City and County of Philadelphia, *ss.*

Register's Office, Jan. 21, 1852.

I do swear that, as executor of the last will and testament of Daniel Man, deceased, I will well and truly administer the goods and chattels, rights and credits, of said deceased, agreeably to law, and I will comply with the provisions of the law relating to collateral inheritance.

DANIEL MAN.

Sworn and subscribed before me the date above, and letters testamentary granted unto him.

SAML. LLOYD,
Deputy Register.

City and County of Philadelphia, *ss.*

Register's Office, Feb. 25, 1853.

I certify the foregoing writing to be a true and correct copy of the last will and testament, and codicil thereto, of Daniel Man, deceased, as well as the probate thereof, as the same remains filed and recorded in this office, in Will Book No. 29, page 56.

Witness my hand and seal of office, the day and year above named.

SAML. LLOYD,
Deputy Register.

Exhibit 2.

City and County of Philadelphia:

Inventory of his estate.

Personally came before me, Register of Wills in and for said city and county, the following persons, viz: Robert Hayes and Thomas P. Ridgway, who, upon their solemn affirmations, did say that they, at the request of Daniel Man, Jr., the executor, well and truly, without prejudice or partiality, valued and appraised the goods, chattels, and credits which were of Daniel Man, deceased, and in all respects performed their duties as appraisers to the best of their skill and judgment.

ROBERT HAYES,
THOMAS P. RIDGWAY.

Affirmed, this 21st day of February, 1852, before me,

J. J. DERRINGER,
Deputy Register.

Inventory and Appraisement of the Goods, Chattels, Rights, and Credits which were of Daniel Man, late of the city of Philadelphia, on the 13th day of January, 1852, taken and made in conformity with the above deposition:—

Bond and mortgage, Archibald McMillan and Stephen Nusal, of Beaver County, Penn., with interest from 1st April, 1848. (Subject to any payments which may have been made to B. R. Bradford, Esq., in Beaver County . .	$1,500	
Bond and mortgage, Geo. Ritter, for . . .	1,000	
Balance of prin. due	287	
Easton Bank stocks, 52 shares @ 65 . .	3,380	
Union Mutual Insurance, 60, 6 ℔ c. scrip . .	1,720	
Frankford and Bristol Turnpike Co., 20 shares .	2,000	
Southwark Bank stock, 3 shares @ 70 . .	210	
Trenton Bridge Co. stock, 10 shares, @ par .	800	
Union Canal Co. " 4 " " . .	200	
David P. Brown, note due 31st Jan. 1852 . .	6,000	
Williamsport and Elmira R. R. loan . . .	3,000	
G. S. Law's bond and mortgage	17,084	94
With interest from Sept. 26, 1839, less whatever payments have been made acc't of interest, as will appear by reference to said bond.		

Rudolph Scheetz, bond and warrant	2 Ap., 1846,	651	91
Thomas Birch's bond and warrant,	30 Sept. 1844,	4,999	22
Andrew C. Mitchell, judgment,	24 May, 1814,	668	
Jacob Vogdes, "	23 July, 1814,	192	13
Andrew C. Mitchell, "	17 June, 1814,	601	33
John Boccalin, "	29 Mar., 1816,	1,186	96
Stephen Carter & Co., "	21 Mar., 1825,	551	07
William Britton, "	14 Oct., 1819,	513	47
Daniel Large, "	13 Ap., 1821,	280	95
Kern & Gagundy, "	28 Dec., 1821,	560	76
Kern & Hand, "	24 Aug., 1822,	441	37
Thomas Elliott, "	13 Dec., 1823,	388	86
Collins & Croft, "	10 Ap., 1824,	508	87
Geo. Kurn, Jr., "	29 Ap., 1825,	1,347	09
John Eckfelt & Samuel Black, "	27 Jan., 1826,	716	18
Frederick Hermbold, "	7 Oct., 1825,	379	58
Isaac Pepper, "	27 June, 1825,	433	14
James Maxwell, "	15 Ap., 1829,	1,007	90
Wm. and Chas. Lungun, "	1 Feb., 1830,	1,101	00
Henry Hermbold, "	29 Sept., 1829,	587	37
Frederick Hermbold, "	30 Sept., 1829,	470	12
John McCormick, "	30 Sept., 1829,	883	46
B. Graves, "	1 Oct., 1829,	1,466	69
W. Moore, "	2 Oct., 1829,	526	28
P. McCormick, "	28 Dec., 1829,	818	06
John McCormick, "	31 Dec., 1829,	820	92
Henry Goldey, "	26 Mar., 1827,	890	99
Louis Bomeisen, "	2 Oct., 1829,	1,989	55
Jos. R. Unkins, "	30 Sept., 1839,	1,788	72
John White, "	26 Sept., 1835,	507	72
R. M. & C. M. Wells, "	30 May, 1834,	611	64
Jas. Rogers, "	24 Oct., 1832,	1,241	69
Wm. Tumtz, "	1 Mar., 1840,	240	57
		$63,556	09

Amount brought forward.

Benj. Y. Thompson, judgment,	23 Oct., 1841,	507	94
Huken & Co., "	26 Dec., 1832,	1,014	04
" " "	10 Nov., 1832,	504	45
M. Thomas, "	5 Oct., 1833,	1,055	08
H. P. Samson, "	2 Sept., 1839,	7,776	92
Daniel Dick & Co., "	22 June, 1833,	577	94
Hannah H. Physick, "	10 Nov., 1834,	565	97

Jos. Rogers, judgment,	11 Nov., 1833,	492 62
John Laval, "	31 July, 1833,	927 61
Thomas Fisher, "	31 June, 1837,	4,007
Charles Pettit, "	19 Jan., 1835,	420 08
John L. Baker, "	19 July, 1838,	12,000
Thos. M. Dyott, "	Dec., 1848,	2,600
" " "	Jan., 1849,	2,600
Edw. Ingersoll, bond, dated April 2, 1832 . .		600
John D. Everhart's bond and mortgage, April 6, 1826		1,185
Andrew Minach, note, due Oct. 13, 1807 . .		3,000
Schott & Mandeville, note, due May 13, 1810 .		3,000
" " " June " " .		2,000
" " " July " " .		1,500
John R. Sunbert, 4 notes, due March, April, and May, 1810		3,831 18
Benjamin Warner's 5 notes, due Oct. and Dec., 1821		3,655 32
These notes of Warner in the hands of C. Wheeler, Esq.		
S. Brooks Hickox, 3 notes, due May, June, and August, 1832		1,363 05
Jas. Welverton, note, due 13th March, 1826 .		1,553 95
Jesse Jony, Jr., 3 notes, due April and Oct., 1836		783 46
Peter Ancora's note, due 29 Dec., 1835 . .		2,675
Robt. Burr, draft, due 9 April, 1833 . . .		3,245
S. Brooks Hickox, note, due 27 Nov., 1832 .		2,012
" " " " " .		1,846
Peter Blight, Pray, & Co.'s note, due 9 Ap., 1800		3,000
(Last dividend paid on this note, 1851.)		
Thos. Culubert's note, due Nov. 13, 1811 . .		1,500
Gastan's, Maymder, & Co., note, due 2 July, 1813		1,790 32
Jas. Webster, note, due 2 June, 1832 . .		1,218
Robert Burns, draft, due 4 April, 1833 . .		4,007 42
M. C. Ralston's note, due 8 Oct., 1840 . .		2,250 50
" " " 10 " " . .		3,620 25
" " " 28 " " . .		2,861 25
" " " 29 " " . .		1,781 72
" " " 15 Jan., 1841 . .		2,346 25
		$156,731 43
Amount brought over.		
M. C. Ralston's note, due 11 Feb., 1841 . .		3,225
Thos. Fisher's " " 22 Dec., 1837 . .		422 53
C. King & Co.'s 3 notes, due Nov., 1841 . .		5,500

C. King & Co.'s 2 notes, due Dec., 1841 . .	3,600	
" " 2 " " Jan., 1842 . .	3,625	
" " note, " 19 Feb., 1842 . .	1,400	
J. Dallam's " " 3 Sept., 1842 . .	150	
Geo. A. Lewis, " " 5 May, 1841 . .	172	50
C. J. Clarke, " " 26 Ap., 1843 . .	500	
S. Peterson's " " 24 " 1848 . .	100	
(The foregoing items, commencing with Williamsport and Elmira Railroad loan, are appraised at the nominal amount, but are considered to be of doubtful and uncertain value—if the executor should recover anything from these, he will charge himself in his ac't.)		
Charles Mortimer's note, due 1 Oct., 1850 . .	200	
(Sundry notes of J. W., M. B., & J. B. & C. W. Dyott, all due previous to 24 March, 1839, amounting altogether to $45,897 94, and are considered entirely worthless.)		
T. W. Dyott & Sons' note, due 31 Dec., 1845, with interest from 7 Jan., 1847 . . .	2,000	
T. W. Dyott & Sons' note, due 25 March, 1847 .	262	67
" " " 25 July, " .	270	69
Rent of house, 86 Race Street, due 13 Nov., 1851	110	
Balance in Commercial Bank	285	68
Cash in bank notes	330	
John W. Monill's bond and mortgage . .	300	

Household Furniture, viz:—

Garret.

Large chest, demijohns, trunks	4	
Matting, andirons, and other old sundries . .	7	75

3d Story.

2 beds, bedstead, and bureau	9	
Carpets, tables, and chairs, &c.	6	
Looking-glass, stair-carpet, &c.	3	50

2d Story.

2 bedsteads and bedding	10	
Looking-glasses, 2 bureaus and chairs . .	12	
Carpet, table, and old sofa	8	
Clothing	10	

Dining-Room.

Tables, chairs, and carpets	8	75
Silver plate	34	

Back Parlor.

Sideboard, table and chairs	11	
Carpet, pictures, and looking-glasses	10	

Front Parlor.

Looking-glasses	16	
3 pictures, sofa	15	
3 tables, and chairs	12	
Carpet, screen, and bunyes	13	

Stairs and Entry.

Clock, stair-carpet, table, &c.	20	

Kitchen.

Crockery-ware and kitchen-furniture	15	
Gig and harness	10	
Fire-proof chest	15	
Sundry mortgages, and other securities, in Luzerne Co. and Wyoming Co., Pennsylvania, and in the State of New York, which are not in the possession of the executors, and will form the subject of a future inventory and appraisement.		
	$183,435	50

Total amount of inventory and appraisement, one hundred and eighty-three thousand four hundred and thirty-five dollars and fifty cents.

PHILADELPHIA, 20th February, 1852.

ROBERT HAYS,
THOMAS P. RIDGWAY.

EXHIBIT 3.

Will and codicils of D. Man, Jr.

I, Daniel Man, Junior, of the city of Philadelphia, being of sound mind, memory, and understanding, and wishing to dispose of all my estate, real and personal, which I now have, or to

which I may be entitled at the time of my decease, do make and publish this, my last will and testament, in manner following, that is to say: I give and devise all the estate, real and personal, to which I am entitled under the will of my late father, unto Samuel W. Paul and John Jordan, Junior, of Philadelphia, and their heirs; in trust, nevertheless, and upon this express confidence, that they shall receive the rents, issues, and profits thereof, and, after deducting the necessary expenses of the trust, shall pay over the balance remaining in their hands into the hands of Louisa S. Anson, of Philadelphia, the daughter of William Arnel, late of Bordentown, New Jersey; her own receipt alone to be a discharge, and from and after her death the principal to be divided among such children of the said Louisa, who shall be living at a period not exceeding nine months after my decease, and, in default of such children, remainder to my heirs.

2. I give and bequeath to Edward S. Anson, the eldest son of the aforesaid Louisa, the sum of five thousand dollars, to be paid to him out of my personal estate, when he shall have arrived at the age of twenty-one years.

DANIEL MAN, Jr.

3. All the rest and residue of my estate, real and personal, I give and devise unto the aforesaid Samuel W. Paul and John Jordan, Junior, in trust, that they shall receive the rents, income, and profits thereof, and after paying the necessary expenses thereof, invest the same according to law, until the youngest child of the aforesaid Louisa S. Anson shall be of legal age, when the same shall be equally divided among all said children, with the exception of the eldest, Edward S. Anson, whom I have provided for hereinbefore. Provided, however, that when the lot on Broad Street and Green Street, in Spring Garden, shall be sold, my brother William shall receive, out of the income of the proceeds thereof, the sum of (eight) eight hundred dollars per annum during his life, to be paid into his hand, and Daniel, the son of Jane, my deceased sister, the sum of four hundred dollars per annum, in like manner, and after their death the principal to form part of my residuary estate.

4. I give and bequeath unto George Ernest Anson, the son of the aforesaid Louisa, the sum of twenty thousand dollars, anything herein contained to the contrary notwithstanding.

I appoint Samuel W. Paul and John Jordan, Junior, my executors, and, in case of their death or declining to serve, then

I appoint the Pennsylvania Life Insurance Company, of which Hyman Gratz is the president, my executors.

Witness my hand and seal, to this, my last will, written entirely in my own hand, this first day of July, eighteen hundred and fifty-two.

DANIEL MAN, Jr. [SEAL.]

I give my said executors power to sell any part, or the whole, of my real estate, and make this a codicil to my foregoing will, which I republish this first day of July, 1852.

DANIEL MAN, Jr. [SEAL.]

I revoke the bequests to my brother William, and Daniel, the son of my deceased sister Jane, and in lieu thereof, direct my executors to pay to my brother William the sum of (six) six hundred dollars per annum, during his life; his own receipt alone to be a discharge; and the said son of my deceased sister, the sum of one hundred dollars per annum, in like manner, and upon the same condition; and, after the death of the said William and Daniel, the principal to form part of my residuary estate; provided, however, that the above sums are only to accrue, and to be paid after the sale of the lot at the corner of Broad and Green Streets, Spring Garden, conveyed to me, *inter alia*, by my father, on the seventh day of June, A. D. 1849, and recorded in Deed Book, F. H., No. , in December, 1851, and to be paid out of the interest of the principal sum received therefor. I direct my executors to complete the purchase of the lot adjoining my Walnut Street lot, at Schuylkill Second, which I am now negotiating with Mr. William Kirk, in case the same shall not be completed at the time of my decease; and to use my personal estate therefor. These lots at Walnut Street and Schuylkill Second, were conveyed to me by my late father, on the 7th day of June, A. D. 1849. The lot on Arch Street, conveyed to me in the same deed, was afterwards sold by my father, before the deed to me was recorded, and the purchase-money, $13,500, was received by him on the 24th of November, 1849. The foregoing is a codicil to my last will, which, with the codicils thereto, is entirely in my own proper handwriting, and which I hereby republish this twenty-second day of November, one thousand eight hundred and fifty-two. (1852).

DANIEL MAN, Jr. [SEAL].

CITY AND COUNTY OF PHILADELPHIA:

Register's Office, February 26, 1853.

Then personally appeared Josiah Randall and Robert Hays, who, being duly sworn and affirmed according to law, say that they were well acquainted with Daniel Man, Jr., deceased, in his lifetime, and are familiar with his handwriting and signature, having frequently seen him write. That they have viewed the foregoing writing, purporting to be the last will and testament and two codicils thereto, of the said Man, and verily believe them to be both, as to the body and the signatures thereto, all in the proper handwriting of the said Daniel Man, Jr.

J. RANDALL,
ROBT. HAYS,
Aff't.

Sworn, affirmed, and subscribed before me the date above.

SAMUEL LLOYD,
Dep. Register.

CITY AND COUNTY OF PHILADELPHIA:

Register's Office, Feb. 26, 1853.

We do affirm that, as the executors of the foregoing last will and testament of Daniel Man, Jr., we will well and truly administer the goods and chattels, rights and credits of said deceased agreeably to law, and that we will comply with the provisions of the law relating to collateral inheritance.

SAMUEL W. PAUL.
JOHN JORDAN, JR.

Affirmed and subscribed before me, the date above, and letters testamentary granted unto them.

CITY AND COUNTY OF PHILADELPHIA:

Register's Office, Feb. 26, 1853.

I certify the foregoing writing to be a true and correct copy of the last will and testament, and codicils thereto, of Daniel Man, Junior, as well as the probate thereof, as the same remains filed and recorded in this office.

Witness my hand and seal of office the day and year above written.

[SEAL.]

Exhibit 4.

City and County of Philadelphia, *ss.*

Inventory of his estate.

Personally came before me, Register of Wills, in and for said city and county, the following persons, viz: John G. Showaker and Abraham Ritter, who, upon their solemn affirmations, did say that they, at the request of the administrator, well and truly, without prejudice or partiality, valued and appraised the goods, chattels, and credits which were of Daniel Man, Junior, deceased, and, in all respects, performed their duties as appraisers to the best of their skill and judgment.

JOHN G. SHOWAKER,
ABRAHAM RITTER.

Affirmed and subscribed before me, this 10th day of April, 1853.

SAMUEL LLOYD,
Deputy Register.

Inventory and Appraisement of the goods, chattels, and credits, which were of Daniel Man, Jr., deceased, late of Philadelphia, taken and made, in conformity with the above deposition:—

One-third of the personal estate of his father, Capt. Dan'l Man, dec'd, valued @	$ 2,500	
$10,000, U.S. loan, 6 ℔ ct., 1867, valued @	11,800	
1,500, 6 ℔ ct. loan of Phila. and Ger. and Nor. R. R. Co.	1,410	
112 shares of stock in Phila., and Ger., and Nor. R. R. Co.	5,264	
$200 Penna. 5 ℔ ct. loan	190	
Josiah Randall's bond and mortgage, dated Jan. 13, 1848, for	5,000	
Josiah Randall's note, dated Jan. 13, 1851, on demand, with interest, for	850	
Cash in bank	495	16
" from sale of horses	300	
" " wagon and harness	76	97
Claim on Abraham Peisch's estate, amount not ascertained in		
Suit, value not ascertained		
Claim in Griswold, New York, in J. B. Fousali's estate, amount not ascertained. Doubtful		
valuation of personal property	$27,886	13

JOHN G. SHOWAKER,
ABRAHAM RITTER.

City and County of Philadelphia:

Register's Office, June 4, 1853.

I certify the foregoing writing to be a true and correct copy of the inventory and appraisement of the estate of Daniel Man, Jr., as the same remains filed in this office.

Witness my hand and seal of office, the date above written.

SAM'L LLOYD,
Dep. Reg.

Exhibit 5.

Philadelphia, *Feb.* 22, 1853.

Dear Uncle: I am very sorry to inform you that your brother died very suddenly yesterday afternoon, about 1 o'clock. I am very much confused just now, and have just arrived from Bethlehem, where I have been to school for 12 years. Uncle will be buried on the 25th of this month. I will remain a short time in the city, or until all is settled, and remain

Letter, 22d Feb., 1853, D. M. King to complainant.

Your nephew,
D. MAN.*

Exhibit 6.

Philadelphia, *Feb.* 22, 1853.

Dear Sir: I inclose you a letter from your nephew, stating the death of your brother Daniel. Owing to Mr. Jordan's absence, who is at New York, we do not know whether there is a will. I will, by Saturday's steamer, give you further information. I think you had better prepare to come home, and by the next letter be ready to come. I have a much valued friend, Richard Smith, Esq., Solicitor, No. 298 Holborn; if you will call on him and show him this letter, he will give you advice what to do.

Letter, 22d Feb., 1853, J. Randall to complainant.

Yours truly,
JOSIAH RANDALL.

Wm. Man, Esq.

* The complainant states that Daniel Man King was accustomed to call himself, and to sign his name, "Daniel Man."

Exhibit 7.

Philadelphia, *Feb.* 28, 1853.

Letter, 28th Feb., 1853, J. Jordan, Jr., to complainant.

My Dear William: You have been apprised by Mr. Randall, and your nephew, of the sudden decease of your brother, which occurred during my absence at New York, whence I returned in season to attend his funeral on Friday morning last. Though his health was not apparently worse than usual, yet the nature of his disease was such as to cause no surprise among his friends, that he was thus untimely removed.

He was buried at Laurel Hill, next to your father. Little more than one year ago, I, who in childhood and boyhood was intimately associated with him, had no conception that I should so soon be called upon to pay the last sad tokens of respect to them both in that short space of time; but thus it is in this world, and we must cheerfully submit to the will of Providence. You may be aware, that, by the terms of your father's will, I was nominated his executor and trustee for yourself and for your nephew, in the event of Daniel's death, and I have, accordingly, entered on those duties with a full sense of the responsibilities vested in me. It will give me great pleasure as trustee, to faithfully carry out the instructions of the will, and to render your position as agreeable as possible.

I trust that the scenes of trial through which you have passed for many years past, have inclined you to lead a more settled life, like a good citizen, useful both to yourself and others. Mr. Randall informs me that he had directed you to apply to Richard Smith, Esq., Solicitor, No. 298 Holborn, in London, through whom you would be authorized to draw on Crafts & Stell, Manchester, with which house Henry Randall, Esq. (a son of Mr. Josiah R.) is connected, for the amount of $500, so that you could immediately return home per steamer, and mayhap will be on your way before this reaches England. Danny is still here; he, I presume, will temporarily return to Bethlehem, until arrangements are made for his removal to some good seminary for the completion of his education.

In anticipation of your return, I have decided on keeping your father's house open, so that you can find a home ready for you, with Margaret at the head.

Your brother has made a will, leaving the bulk of his property to his family of four children and their mother. Not forgetting a legacy of $600 to you, payable yearly, *whenever* his Broad Street lot is sold, which may be in the course of a few years. Your income from your father's estate, though

sufficient to enable you to live very handsomely, is not so large as was anticipated by many, as a considerable amount of property is not productive. Of business, however, I will write but little, leaving it until you are here.

Mr. Samuel W. Paul, and myself, are executors of Daniel's will, and trustees for his family.

Allow me to suggest that, immediately on your arrival here, you will call at once on me, and caution you against the arts of interested people, who may approach you for selfish purposes.

My brother Francis is very well, and desires, with my sister, to be affectionately remembered.

Yours faithfully,
JOHN JORDAN, Jr.

P. S.—I need scarcely say that I will honor the bill of the value of ($500) five hundred dollars, that may have been negotiated in accordance with Mr. Randall's advice.

Exhibit 8.

Letter of attorney, 7th April, 1847.

Know all men by these presents, that I, Daniel Man, of the city of Philadelphia, gentleman, have constituted, made, and appointed, and by these presents do constitute, make, and appoint, my son, Daniel Man, Junior, lawful attorney for me and in my name and stead, and to my use, to ask, demand, sue for, levy, recover, and receive all such sum and sums of money, debts, rents, goods, wares, dues, accounts, and other demands whatsoever, which are or shall be due, owing, payable, and belonging to me, or detained from me in any manner of ways or means whatsoever; and also, for me and in my name, to lease, bargain, sell, and absolutely dispose of all or any of my messuages, tenements, lots, lands, and real estate, situated, lying, and being in the States of Pennsylvania, New Jersey, and New York, in such lots and parcels, and for such rents and prices, and upon such terms and securities as he may see fit. And I hereby authorize him to make, execute, and deliver, in my name and as my attorney, all and any contracts, conveyances, deeds, or assurances in law, in absolute fee simple or otherwise, and to receive all bonds, mortgages, or obligations for the purchase-money or the rents aforesaid, and to receive payments therefor and thereon, giving and granting unto my said attorney, by these presents, my full and entire property and authority in and about the premises, to have, use, and take all lawful ways and means, in my name, for the recovery thereof; and, upon the receipt of any such debts, dues, or sums of money aforesaid, acquittances or other sufficient discharges,

for me and in my name to make, seal, and deliver, and generally all and every other act and acts, thing and things, device and devices in the law whatsoever, needful and necessary to be done in and about the premises, for me and in my name to do, execute, and perform, as fully, largely, and amply, to all intents and purposes, as I might or could do if I were personally present, or as if the matter required more special authority than is hereby given. And attorney one or more under him, for the purpose aforesaid, to make and constitute, and again at pleasure to revoke; ratifying, allowing, and holding for firm and effectual all and whatsoever my said attorney or his substitutes shall lawfully do in and about the premises by virtue hereof.

In witness whereof, I have hereunto set my hand and seal, the seventh day of April, in the year of our Lord one thousand eight hundred and forty-seven (1847).

DANIEL MAN. [SEAL.]

Signed, sealed, and delivered in the presence of us,
THOMAS J. WOOD,
JOHN A. ELKINTON.

This eighth day of April, A.D. 1847, personally appeared before me, an alderman of the city of Philadelphia, the abovenamed Daniel Man, and acknowledged the foregoing power of attorney to be — act and deed, and desired the same might be recorded as such according to law. Witness my hand and seal, this eighth day of April, 1847.

JOHN A. ELKINTON, [SEAL.]
Alderman.

Recorded April 21st, A.D. 1847.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I, Thomas Helm, recorder of deeds, &c. for the said city and county of Philadelphia, do hereby certify that the above and foregoing is a true and correct copy of a certain instrument of writing remaining of record in my office, Letter of Attorney Book R.L.L., No. 1, page 832, &c.

Witness my hand and seal of office, this fourteenth day of April, A.D. 1853.

[SEAL.] THOS. HELM,
Recorder.

Exhibit 9.

Letter of attorney, 8th April, 1848.

Know all men by these presents, that I, Daniel Man, of the city of Philadelphia, esquire, have constituted, made, and appointed, and by these presents do make, constitute, and appoint, my son, Daniel Man, Junior, my true and lawful attorney, for me and in my name and stead to ask, demand, sue for, recover, collect, and receive all such sum or sums of money, rents, debts, dues and demands, bonds, mortgages, judgments, interest, dividends, certificates of stock and of loans and of other securities, choses in action, evidences of property or debts, and all other property, of whatever name and description, now or hereafter due, owing, payable, or belonging to me in any manner whatever, and in my name and stead to draw and sign checks or drafts for any money now or hereafter belonging to me or deposited by me or in my name in any bank or with any banks, corporation, company, or person in the United States of America or elsewhere. Also, in my name and stead, to sell, assign, and transfer any bonds, mortgages, judgments, stocks or loans of or in any corporation, or of any city or State, or of any other nature and description, and all other personal estate whatsoever, now or hereafter belonging to me, for such price or prices and upon such terms as he, my said attorney, may think proper, and to sign, execute, and acknowledge, under seal or otherwise, all acts and instruments of assignment and transfer of such stocks, loans, bonds, mortgages, judgments, or other personal estate to the purchaser or purchasers thereof, and to collect and receive all interest and dividends accrued or hereafter to accrue on such stocks, loans, bonds, mortgages, judgments, or other personal property, and to sign receipts therefor. And also, for me and in my name and stead, to let on ground-rent, and to lease, mortgage, bargain, grant, sell, and absolutely dispose of all or any messuages, tenements, lots, lands, or hereditaments which I now or may hereafter own, in the United States of America or elsewhere, in such lots and parcels, and for such rents and prices, and upon such terms and securities as my said attorney may think proper; and I hereby authorize him to make, execute, and deliver, in my name and as my attorney, all and any contracts, deeds, or assurances in law, in absolute fee simple or otherwise, and to release and extinguish any ground-rents now or hereafter to be reserved, to settle, compromise, and adjust all disputes and claims in relation to real estate or to personal claims or liabilities. Also, in my name and stead, to collect and receive all money due or to become due to me on mortgages, bonds, judgments, stocks, loans and other securities, choses in action, evidences of

property or debt, and upon all other kind of property, of whatever name and description, or in any other manner whatsoever, and to have, use, and take all lawful means for the recovery and collection thereof, to enter and acknowledge satisfaction thereon, and to give releases, receipts, discharges, and extinguishments for the same, under seal or otherwise. Also, to bring, prosecute, continue, and carry on to final judgment and execution any suit or suits, either at law or in equity, or other lawful proceeding which he, my said attorney, may deem necessary or proper, touching any of my business affairs, property, or estate, and to appear and defend any suit or suits at law or in equity which may be prosecuted or instituted against me, or in which I may be in any way interested or concerned. And also, for me and in my name and stead, to invest any money, now or hereafter belonging to me, in real estate, bonds, mortgages, stocks, and loans of any and every kind, or upon such securities of any other kind as to him, my said attorney, shall seem right and proper. And also to make any disbursements, by way of gift or otherwise, for the support or benefit of myself or any of my family, giving and granting unto my said attorney my full and entire power and authority in and about the premises; and, as it is impossible for me to foresee every contingency that may occur, I hereby expressly declare that it is my meaning and intention, in and by these presents, to constitute and appoint my said attorney my general agent, with the most ample powers at his discretion to manage all my property and affairs; and all acts and deeds and devices in law, in relation thereto, to do, execute, and perform, as largely, amply, and beneficially as I myself might or could do were I personally present, or as if the matter required more special authority than is herein given; and attorneys, one or more, under him, to make, constitute, and appoint, and again at pleasure to revoke, ratifying, allowing, and holding for firm and effectual all and whatsoever my said attorney shall lawfully do in and about the premises by virtue hereof. And I do hereby ratify and confirm all the acts and things heretofore executed and done by my said attorney, under and by virtue of a certain power of attorney, dated the seventh day of April, A.D. 1847, and duly recorded in the office for recording deeds, &c. for the city and county of Philadelphia, in Power of Attorney Book R. L. L., No. 1, page 832, &c. In witness whereof, I have hereunto set my hand and seal, this eighth day of April, in the year of our Lord one thousand eight hundred and forty-eight (1848). DANIEL MAN. [SEAL.]

Signed, sealed, and delivered in the presence of
THOS. R. SCOTT,
C. BRAZER.

This eighth day of April, A.D. 1848, before me, the subscriber, an alderman of the city of Philadelphia, personally appeared the above-named Daniel Man, and acknowledged the foregoing power of attorney to be his act and deed, and desired the same might be recorded as such. Witness my hand and seal, the eighth day of April, A.D. 1848.

C. BRAZER, [SEAL.]
Alderman.

Recorded April 22, 1848.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I, Thomas Helm, recorder of deeds, &c. for the said city and county, do hereby certify that the above and foregoing is a true and correct copy of a certain instrument of writing remaining of record in my office, in Letter of Attorney Book A.W.M., No. 1, page 255, &c.

Witness my hand and seal of office, this fourteenth day of April, A.D. 1853.

[SEAL.] THOS. HELM,
Recorder.

EXHIBIT 10.

Articles with Ridgway, 23d April, 1839.

An article of agreement, made and entered into between Jacob Ridgway, of the city of Philadelphia, of the one part, and Daniel Man, of the same place, of the other part, witnesseth: That whereas the said Jacob Ridgway hath loaned to the said Daniel Man the sum of twelve thousand dollars, and taken the said Daniel Man's bond for the said twelve thousand dollars, so loaned, and his mortgage to secure the payment thereof, all bearing even date herewith, on a certain lot of ground situate in the district of Kensington and county of Philadelphia, on which is erected forty tenements or dwelling-houses, by reference to said mortgage, will more fully and at large appear; which said lot and tenements the said Daniel Man purchased at the sale of Daniel Fitler, Esq., High Sheriff for the city and county of Philadelphia, on the 4th day of March last, and received the said sheriff's deed, dated 23d day of March, 1839, for the sum of three thousand dollars, subject to two mortgages for eight thousand dollars each, making together the sum of sixteen thousand dollars; and, also, one thousand dollars, being interest due thereon, makes seventeen thousand dollars. This, together with the purchase-money of three thousand dollars, will make the whole cost of said lot and forty houses amount

to twenty thousand dollars, the said two mortgages amounting to sixteen thousand dollars, having been assigned to and held by the said Daniel Man, he hereby engages to enter satisfaction on the books of record of said two mortgages, and discharge them from all lien on the said lot and forty houses, before the execution of this agreement. Now, it is mutually agreed upon and understood, between the said two parties, that in consideration of the said Jacob Ridgway having loaned to the said Daniel Man the aforesaid sum of twelve thousand dollars, the said Daniel Man hereby binds himself, his heirs, executors, and administrators, unto the said Jacob Ridgway, his heirs and assigns, that he or they shall and will, at every time when so required, convey and execute a good and sufficient deed to the said Jacob Ridgway, his heirs and assigns, for all the aforesaid lots of ground, with the forty houses erected thereon, as fully and as clearly as the same was conveyed to him by Daniel Fitler, sheriff, per his deed, dated 23d March, 1839, and to be freed and cleared of the lien of the aforesaid two mortgages of eight thousand dollars, each and all other liens and incumbrances. The said Jacob Ridgway promises and engages to pay, or cause to be paid, to the said Daniel Man, the sum of eight thousand dollars, before the execution of the deed by the said Daniel Man to the said Jacob Ridgway, conveying in fee to him, his heirs, and assigns, all the aforesaid lot and forty houses. This eight thousand dollars, together with the twelve thousand dollars loaned on mortgage to the said Daniel Man, makes the sum of twenty thousand dollars, the amount of the purchase-money agreed upon for the aforesaid lot and houses; the said Jacob Ridgway hereby promises and engages that the aforesaid mortgage of Daniel Man for twelve thousand dollars shall not be assigned, transferred, or set over unto any person or persons, but shall remain and abide in the hands of the said Jacob Ridgway, or his heirs, as a lien on the aforesaid lot and houses, mentioned in the said mortgage; nor shall the same be sued out, unless the said Daniel Man, his heirs, executors, and administrators, refuse to execute and convey, by a good and sufficient deed to the said Jacob Ridgway, his heirs and assigns, for all the aforesaid mortgaged premises. And it is further agreed upon, between the said two parties, that the said Daniel Man shall retain possession of the said forty houses and premises, and to lease and to let them, in the most advantageous manner in his power, and to pay over to the said Jacob Ridgway, his heirs and assigns, every six months, during the time he retains possession or holds the title thereof; and until the said property is conveyed to the said Jacob Ridgway, his heirs or assigns, all the net amount of rents arising from or received

for the said forty houses, first deducting therefrom all the taxes that shall or may be paid on the same, also the cost of necessary repairs, and the cost of collecting said rents, which is not to exceed five per cent. on the amount received; also, any other unavoidable expenses which may occur in relation to said houses; and as there still remains due to said Daniel Man eight thousand dollars of the sum agreed upon to be paid for the aforesaid property, he is to deduct the interest of this sum, which will be $480 per annum, or $240 every six months, from the amount of the said rents so collected before the same so paid over to the said Jacob Ridgway. In witness whereof, the said parties have hereunto set their hands and seals, this 23d day of April, 1839.

J. RIDGWAY, [SEAL.]
DANIEL MAN. [SEAL.]

Signed, sealed, and delivered, in the presence of
B. H. MOORE,
THOS. CIDUEN.

EXHIBIT 11.

DANIEL MAN
to
DANIEL MAN, JR.

Deed, 2d Feb., 1843, to D. Man, Jr., (Kensington Houses, R. L. D., 2, 161.)

This indenture, made the second day of February, in the year of our Lord one thousand eight hundred and forty-three, between Daniel Man, of the city of Philadelphia, gentleman, of the one part, and Daniel Man, Jr., of the said city, gentleman, the son of the first above named Daniel Man, of the other part; witnesseth, that the said Daniel Man, the elder, for, and in consideration of the natural love and affection which he bears to his son, the said Daniel Man, Junior, and also for, and in consideration of the sum of one dollar, lawful money, unto him in hand paid by the said Daniel Man, Junior, at the time of the execution hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and confirmed, and by these presents doth bargain, grant, and sell, release and confirm unto the said Daniel Man, Junior, his heirs and assigns, all that certain lot or piece of ground with the forty brick messuages thereon erected, situate and lying, and being on the west side of Wood Street and south side of Prince Street, in the Kensington District of the Northern Liberties, in the county of Philadelphia, containing in front or breadth on the said Wood Street, one hundred and forty-two feet, and con-

taining that breadth in depth southward two hundred and eighty-four feet, bounded southward by ground granted by Christian Sheets to John Hewson, Junior, westward by Vienna Street, northward by Prince Street, and eastward by Wood Street, aforesaid, being the same premises that Daniel Fitler, Esq., High Sheriff of the city and county of Philadelphia, by deed-poll, dated the twenty-third day of March, Anno Domini one thousand eight hundred and thirty-nine, duly acknowledged in open Court of Common Pleas for said city and county, and entered among the records thereof in Book K, page 18, &c., granted unto the said Daniel Man, the elder, in fee simple, seized and sold as the property of T. W. Dyott, at the suit of Wm. L. Brooks, to the use of Horatio B. Pennock, subject to the payment of two certain mortgage debts in the said deed-poll, mentioned (which have since been satisfied of record), together with all and singular, the buildings, improvements, ways, streets, alleys, water-courses, rights, liberties, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, claim and demand whatsoever of him the said Daniel Man, the elder, as well at law as in equity, of, in, to, and out of the same; to have and to hold the said lot or piece of ground above described, and messuages thereon erected; hereditaments and premises hereby granted, with the appurtenances, unto the said Daniel Man, Junior, his heirs and assigns, to, and for the only proper use and behoof of the said Daniel Man, Junior, or his heirs and assigns forever; and the said Daniel Man, the elder, and his heirs, all and singular, the hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances unto the said Daniel Man, Junior, his heirs and assigns, against him, the said Daniel Man, the elder, and his heirs and assigns, and against all and every other person and persons whomsoever lawfully claiming or to claim by, from, or under him, them, or any of them, shall and will warrant and forever defend by these presents.

In witness whereof, the said parties have interchangeably set their hands and seals hereunto. Dated the day and year first above written.

DANIEL MAN. [SEAL.]

Sealed and delivered in the presence of us,

WM. CHRISTIAN,
JACOB B. RITTER.

On the same day of February, Anno Domini one thousand eight hundred and forty-three, before me, the subscriber, one of the aldermen of the city of Philadelphia, came the above-named Daniel Man, the elder, and acknowledged the above-written indenture to be his act and deed, and desired the same to be recorded as such.

Witness my hand and seal the day and year aforesaid.

PETER CHRISTIAN, [SEAL.]
Alderman.

Recorded February 3, 1843.

Exhibit 12.

Dr. *Daniel Man, Junior, in account with*

Acc't Jan'y, 1848, D. Man, Jr., with ex'rs of Ridgway, and rect.	1842. Oct. 25,	To amount of rent collected . . .			$79 42
	" Nov. 29,	"	"		64 83
	" Dec. 29,	"	"		14 49
		[Property in possession of Drexel until 30th April, 1844] . . .			$158 74
	1844. May 28,	To amount of rent collected .			75 14
	" June 27,	"	"	" . .	167 47
	" July 23,	"	"	" . .	115 49
	" Aug. 26,	"	"	" . .	113 83
	" Sept. 30,	"	"	" . .	196 86
	" Oct. 30,	"	"	" . .	108 97
	" Nov. 30,	"	"	" . .	97 17
	" Dec. 30,	"	"	" . .	110 16
	1845. Jan. 29,	"	"	" . .	120 16
	" Feb. 25,	"	"	" . .	47 49
	" Mar. 27,	"	"	" . .	110 22
	" April 29,	"	"	" . .	146 94
	" June 15,	"	"	" . .	186 64
	" " 30,	"	"	" . .	123 86
	" July 31,	"	"	" . .	145 53
	" Aug. 30,	"	"	" . .	128 55
	" Sept. 30,	"	"	" . .	149 21
	" Oct. 28,	"	"	" . .	122 98
	" Nov. 28,	"	"	" . .	138 09
	" Dec. 30,	"	"	" . .	120 13
	1846. Jan. 29,	"	"	" . .	114 34
	" Feb. 27,	"	"	" . .	120 50
	" Mar. 30,	"	"	" . .	130 42
	" April 29,	"	"	" . .	173 13
	" May 26,	"	"	" . .	147 51
	" June 30,	"	"	" . .	199 33
	" July 29,	"	"	" . .	139 41
	" Aug. 26,	"	"	" . .	142 47
	" Sept. 30,	"	"	" . .	178 62
	" Oct. 27,	"	"	" . .	128 15
	" Nov. 25,	"	"	" . .	103 22
	" Dec. 29,	"	"	" . .	146 27
	1847. Jan. 26,	"	"	" . .	119 60
		Carried over			$4,219 83

the estate of J. Ridgway, deceased. CR.

1844.	May	10,	Paid Peter C. Bennet, for cleaning 10 privies		100	
"	"	"	" premium on 8 policies of insurance . .	$52 50		
"	"	"	" for eight policies	8		
					60	50
"	July	12,	" T. Craven, on account . .		66	57
"	Aug.	29,	" Hugh Rogers, bricklayer .		128	
"	Oct.	23,	" 6 mo's interest on $8,000 .		240	
"	Nov.	30,	" 6 mo's interest on $8,000, due 23d Oct., 1842 . $240			
			interest on $81,26 from Dec., 29, 1842, to Nov. 30, 1844 .	9 35		
					249	35
1845.	Jan.	15,	" Wm. Savidge, carpenter .		42	25
"	"	31,	" Harbert & Davis, for lumber		39	02
"	Feb.	3,	" Hugh Rogers, bricklayer .		57	50
"	"	28,	" Zell & Co., for hardware .		8	82
"	Mar.	29,	" D. Emerick, on account of taxes for 1844 . . .		250	
"	April	23,	" 6 mo's interest on $8000 .		240	
"	May	10,	" premium of insurance . .		52	50
"	"	"	" D. Emerick, in full for taxes, 1844		102	
"	July	3,	" T. Craven, on account . .		134	24
"	Aug.	30,	" Reuben Savidge, carpenter, on 29th Dec., 1842 . $256 86			
			interest on do. to 30th Aug., 1845 . .	41 11		
					297	97
"	Oct.	23,	" 6 mo's interest on $8,000 .		240	
"	Dec.	10,	" Wm. Savidge, carpenter .		36	
1846.	Jan.	17,	" Adam Johnston, for curbing and paving . . .		370	03
"	Mar.	4,	" Zell & Co., for hardware .		5	32
"	April	3,	" D. Emerick, on acc't of taxes for 1845		250	
"	"	23,	" 6 mo's interest on $8,000 .		240	
"	May	10,	" premium of insurance . .		52	50
			Carried over		$3,262	57

DR. *Daniel Man, Jr., in account with*

	Amount brought over . . .		$4,219 83
1847. Feb. 24,	To amount of rent collected .		133 28
" Mar. 30,	" " " . .		179 86
" April 27,	" " " . .		168 26
" May 25,	" " " . .		162 86
" June 29,	" " " . .		217 40
" July 22,	" " " . .		86 63
" Aug. 24,	" " " . .		203 67
" Sept. 29,	" " " . .		172 52
" Oct. 27,	" " " . .		158 59
" Nov. 30,	" " " . .		153 31
" Dec. 29,	" " " . .		141 36
			$6,304 34
1847. Dec. 30,	To balance		253 51
1848. Jan. 11,	To amount of interest charged—		
	1846. Aug. 30 .	$48 16	
	1847. Jan. 26 .	46 92	
	" July 22 .	46 80	
			141 88
" " "	To balance of account .		10,028 74
			$10,424 13

the estate of J. Ridgway, deceased. Cr.

			Amount brought over . . .		$3,262 57
1846.	May	13,	Paid Harbert & Davis, for lumber		25 41
"	June	24,	" D. Emerick, in full, for taxes for 1845		86
"	July	1,	" T. Craven, on acc't . .		108 67
"	Aug.	30,	" 6 mo's interest on $8,000, due 23d April, 1843 . $240 interest on do. to 30th Aug., 1846 . 48 16		288 16
"	Oct.	23,	" 6 mo's interest on $8,000 .		240
"	Nov.	20,	" for iron water-pipes . .		150 47
"	Dec.	30,	" Hugh Rogers, bricklayer .		5 15
1847.	Jan.	26,	" 6 mo's. interest on $8,000, due 23d October, 1843 $240 interest on do. to 26th Jan., 1847 . . 46 92		286 92
"	Feb.	1,	" T. Craven, on account . .		200
"	April	23,	" 6 mo's interest on $8,000 .		240
"	"	29,	" taxes for 1846 . . .		330
"	May	10,	" premium of insurance . .		52 50
"	July	22,	" 6 mo's interest on $8,000, due 23d April, 1844 . $240 interest on do. to 22d July, 1847 . . 46 80		286 80
"	Oct.	23,	" 6 mo's interest on $8,000 .		240 00
			" expenses at various times, per statement		258 18
"	Dec.	30,	By balance		253 51
					$6,304 34
			By principal debt . . .		8,000 00
			By interest on $8,000, from Oct. 23, to 11th Jan. 1848 . .		106 66
			By balance attorney's fees . .		2,304 96
			Interest from 8th Dec. to 11th Jan., 1848		12 51
					$10,424 13

Received, Jan. 11, 1848, of the executors of J. Ridgway, deceased, ten thousand and twenty-eight $\frac{74}{100}$ dollars in full, of balance of above account.

$10,028 74. DANIEL MAN, Jr.

Exhibit 13.

Declaration of trust, by D. Man, Jr., 6th January, 1848.

To all to whom these presents shall come, Daniel Man, Jr., of the city of Philadelphia, gentleman, sends greeting: Whereas, Daniel Fitler, Esq., High Sheriff of the city and county of Philadelphia, by deed poll, dated the twenty-third day of March, Anno Domini one thousand eight hundred and thirty-nine, duly acknowledged and entered among the records of the Court of Common Pleas of Philadelphia County, in book K, page 18, etc., did grant and convey unto Daniel Man, the elder, of the said city, his heirs and assigns, forever, a certain lot or piece of ground, with the brick messuages thereon erected, situate, lying, and being on the west side of Wood Street, and south side of Prince Street, in the Kensington district of the Northern Liberties, in the county of Philadelphia, containing, in front or breadth on the said Wood Street, one hundred and forty-two feet, and continuing that breadth in depth southward, two hundred and eighty-four feet. Bounded, southward, by ground granted by Christian Sheets to John Hewson, Jun.; westward, by Vienna Street; northward, by Prince Street; and eastward by Wood Street, aforesaid, together with the appurtenances; subject to the payment of two certain mortgage debts of eight thousand dollars each, unto the Kensington Bank, in the county of Philadelphia; both of which said mortgage debts have been paid, and discharged of record. And whereas the lot and premises aforesaid were purchased by, and conveyed to, the said Daniel Man, the elder, as aforesaid, at the request of Jacob Ridgway, late of the city of Philadelphia, deceased, for his account and on his behalf, to be held by him the said Daniel Man, the elder, his heirs and assigns, in trust, for the only proper use and behoof of the said Jacob Ridgway, his heirs and assigns, by whom the purchase-money was paid; and when requested so to do, to convey the same to the said Jacob Ridgway, his heirs and assigns. And whereas the said Daniel Man, the elder, at the special instance and request of the said Jacob Ridgway, by indenture dated the second day of February, Anno Domini one thousand eight hundred and forty-three, recorded at Philadelphia, in deed-book R. L. Ll. No. 2, page 161, granted and conveyed the same lot of ground and brick messuage thereon erected, with the appurtenances, to his son, the said Daniel Man, Jr., his heirs and assigns, for ever. And whereas the said Jacob Ridgway afterwards departed this life, having first made and published his last will and testament, in writing, dated the first day of May, Anno Domini one thousand eight hundred and forty-one, duly proved and registered at Phila-

delphia, in the month of May, Anno Domini one thousand eight hundred and forty-three; wherein and whereby he gave and devised all the residue of his estate, including the lot and messuage thereon aforesaid, to his three children, namely: Susannah R. Rotch, since intermarried with John Rhea Barton; Phœbe Ann Rush, wife of Dr. James Rush; and John Jacob Ridgway, in equal shares, in fee. Now, in consideration of the premises, and the sum of one dollar, lawful money, to him in hand paid by the said Susannah R. Barton, Phœbe Ann Rush, and John Jacob Ridgway, at the time of the execution hereof, the receipt whereof is hereby acknowledged, he, the said Daniel Man, Jr., for himself, his heirs, and assigns, doth hereby acknowledge, confess, testify, and declare, to all whom it may concern, that he, the said Daniel Man, Jr., his heirs and assigns, doth and will stand seised of the premises above described, with the appurtenances, in trust for the use of the children and residuary devisees of the said Jacob Ridgway above named, their heirs and assigns, in equal shares, as tenants in common. That when thereto required, he, the said Daniel Man, Jr., his heirs or assigns, shall and will, in due form of law, grant and convey the same lot and premises to them the said residuary devisees, their heirs and assigns. In witness whereof, the said Daniel Man, Jr., hath hereunto set his hand and seal, this sixth day of January, Anno Domini one thousand eight hundred and forty-eight (1848).

DANIEL MAN. [SEAL.]

Sealed and delivered, in presence of us.

JOEL COOK.
THOMAS CRAVEN.

The eleventh day of January, Anno Domini 1848, before me, the subscriber, an alderman of the city of Philadelphia, came the above named Daniel Man, Jr., and acknowledged the above declaration of trust to be his act and deed, and desired the same, as such, to be recorded according to law. Witness my hand and seal, the day and year aforesaid.

JOEL COOK, [SEAL.]
Alderman.

EXHIBIT 14.

Contract, 10th January, 1848, ex'rs Ridgway with D. Man, Jr.

To all whom it may concern, John Rhea Barton, M. D., John Jacob Ridgway, by Richard Willing, his attorney in fact, duly constituted, and James Rush, M. D., send greeting.

Whereas Daniel Man, of the city of Philadelphia, executed

to Jacob Ridgway, late of the said city, deceased, a bond or obligation, dated the twenty-third day of July, A. D. one thousand eight hundred and thirty-nine, conditioned for the payment of twelve thousand dollars, accompanied with a mortgage of a certain lot of ground situate in the District of Kensington, and county of Philadelphia, on which were erected forty tenements or dwelling-houses, being the same premises which Daniel Fitler, Esquire, high sheriff of the city and county of Philadelphia, by deed poll, dated the twenty-third day of March, Anno Domini one thousand eight hundred and thirty-nine, duly acknowledged and entered among the records of the Court of Common Pleas of Philadelphia County, in Sheriff's Deed-book K., page 18, granted to said Daniel Man, in fee; and whereas the said bond or obligation and mortgage have been fully discharged, and thereupon the said bond has been delivered to the said Daniel Man, to be cancelled; and whereas the mortgage aforesaid, which accompanied the said bond, has not been recorded, and is lost or mislaid and cannot be found; and whereas Susannah R. Barton (late Rotch, before her marriage with the said John Rhea Barton), John Jacob Ridgway, and the said James Rush, are the executrix and executors of the last will and testament of the said Jacob Ridgway, deceased: Now know ye, that the said John Rhea Barton, John Jacob Ridgway, by his attorney in fact, the said Richard Willing, and James Rush, do hereby, for themselves, their respective heirs, executors, and administrators, each one for himself, covenant, promise, and agree, to and with the said Daniel Man, his heirs, executors, and administrators, in manner following, to say that, in the event of their finding the aforesaid mortgage, the same shall and will be delivered up, cancelled, to the said Daniel Man, his heirs, executors, or administrators; and that, in the mean time, and at all times, they, the said John Rhea Barton, John Jacob Ridgway, and James Rush, their respective heirs, executors, and administrators, shall and will well and sufficiently save, keep harmless and indemnified the said Daniel Man, his heirs, executors, and administrators, and his and their goods, chattels, lands, and tenements, of and from all actions, suits, judgments, executions, costs, expenses, damages, and demands, for, on account, or by reason of the said mortgage, or of any matter, cause, or thing concerning the same; and, for the just and true performance of their said covenants and agreements, the said John Rhea Barton, John Jacob Ridgway, and James Rush do bind themselves, and each for himself and his respective heirs, executors, and administrators, jointly and severally, unto the said Daniel Man, firmly, by these presents. In witness whereof, the said John Rhea Barton, John Jacob Ridgway, by his attorney in fact, the said Richard

Willing, and James Rush, have hereunto set their respective hands and seals, this tenth day of January, A. D. one thousand eight hundred and forty-eight (1848).

J. RHEA BARTON, [SEAL.]
JOHN J. RIDGWAY, [SEAL.]
by his attorney in fact,
RICHARD WILLING, [SEAL.]
JAMES RUSH. [SEAL.]

Sealed and delivered in the presence of us,
JOEL COOK.

The tenth day of January, Anno Domini 1848, before me, the subscriber, an alderman of the city of Philadelphia, came John Rhea Barton and James Rush, and acknowledged the aforegoing instrument of writing to be their act and deed; and at the same time came Richard Willing, and acknowledged the said instrument of writing to be as well the act and deed of his constituent, the said John Jacob Ridgway, as his own act and deed as attorney in fact aforesaid, and severally desired the same to be recorded according to law. Witness my hand and seal, the day and year aforesaid.

JOEL COOK, [SEAL.]
Alderman.

EXHIBIT 15.

Deed of 19th March, 1845, as to Piesch's estate.

For and in consideration of natural love and affection, and the further consideration of the sum of one dollar, to me in hand paid by my son, Daniel Man, Junior, of the city of Philadelphia, the receipt whereof is hereby acknowledged, I, Daniel Man, the elder, of the said city, have, and by these presents do, assign, transfer, and set over, unto the said Daniel Man, Junior, all my right, title, interest, claims, demands, and dividends, principal and interest, due, or becoming due, to me, in any manner whatever, from the estate of Abraham Peisch, deceased, or his assignee, Jacob Idler. And I do herewith deliver over to the said Daniel Man, Junior, all the promissory notes drawn or indorsed by the said Abraham Peisch, heretofore owned and held by me.

In witness whereof, I have hereunto set my hand and seal, this nineteenth day of March, in the year of our Lord one thousand eight hundred and forty-five.

DANIEL MAN. [SEAL.]

Sealed and delivered, in the presence of us, 1845, March 19th.
JOHN JORDAN, Jr.
FRANCIS JORDAN.

Exhibit 16.

[Copy of paper in the hand-writing of Daniel Man, Junior.]

Agreement, 24th Mar. 1845, D. Man, Jr., with J. Randall.

It is agreed between Daniel Man, Junior, assignee of Daniel Man, Sen., one of the creditors of Abraham Peisch's estate, and Josiah Randall, that J. Randall shall prosecute the claim of the said Daniel Man, Jun., and Daniel Man, Sr., upon the said estate of Abraham Peisch, and the assignee, Jacob Idler; and that he shall receive for his compensation, twenty per cent. on the first sum of six thousand six hundred and fifty-two $\frac{03}{100}$ dollars, recovered in any manner by the said D. Man, Jr., or D. Man, Sr., or either of them, from the said estate, or the assignee, Jacob Idler; and the proportion thereof, in case a less sum should be recovered, as aforesaid; and it is further agreed that the said J. Randall shall receive the sum of fifteen per cent. on the balance of the other sums of money recovered by the said D. Man, Jr., or D. Man, Sr., or either of them, from the said estate of Abraham Peisch, or the assignee, Jacob Idler.

Witness our hands and seals, this 24th day of March, A. D. 1845.

Signed, { J. RANDALL. [SEAL.]
{ DANIEL MAN, Jr. [SEAL.]

Exhibit 17.

Transfer and power from Ritter's executrix, January, 1848.

Articles of agreement between Susan Ritter, executrix of Jacob Ritter, Jr., deceased, one of the assignees of Abraham Peisch, and Daniel Man, Jr., one of the creditors of the estate of the said Abraham Peisch.

1. The said Daniel Man, Jr., subject to the provisions contained in the seventh article, hereby releases and discharges the estate of Jacob Ritter, Jr., from all claims and demands upon the said estate of J. Ritter, Jr., as an assignee of the estate of Abraham Peisch, so far as the said D. Man, Jr., is a creditor, or concerned, or has any interest; and he agrees that the sum of three hundred and one dollars and forty-two cents, transferred to Jacob Idler, as the surviving assignee, shall be considered, so far as the said estate and D. Man, Jr., are concerned, as the true balance due from the estate of J. Ritter, Jr., to the estate of Abraham Peisch.

2. The said Daniel Man, Jr., releases the estate of J. Ritter, Jr., his portion of any dividend awarded to him, so far as the said dividend is constituted or made up of any future payments to be made by the said estate of J. Ritter, Jr., and agrees to release and discharge the said estate of J. Ritter, Jr., there-

from, as fully as though the said portion had been paid to the said Daniel Man, Jr.

3. The said Susan Ritter, executrix, hereby assigns, transfers, and conveys to the said D. Man, Jr., all the right, title, and claim of the estate of J. Ritter, Jr., or his representatives, upon the property, funds, or assets of the estate of Abraham Peisch.

4. All funds or assets belonging to John Greiner, or his estate, in South America, to be added to, and distributed among, the assets of Peisch's estate, until the debt due by Greiner to Peisch's estate shall be fully paid and liquidated.

5. The parties hereto bind themselves to bring the accounts of the estate of Peisch and his assignees to a speedy and final adjudication and conclusion.

6. The said Daniel Man, Jr., agrees to contest the claims of—

1. The estate of J. Bunet, represented by B. Newcomb, Esq.
2. The estate of —— Lehman, represented by St. G. T. Campbell, Esq.
3. The estate of Mr. Dumas, represented by Henry Chester, Esq.
4. The estate of —— Eyre, represented by H. M. Phillips, Esq.

The said Daniel Man, Jr., also agrees to admit the claim for a dividend of John Goddard, on his debt of $2,100, on the same footing with his preferred debt.

7. If any other claim, or claims, or demands, amounting to $5,000, shall be finally agreed to be entitled to a dividend upon equal footing with the preferred claim of D. Man, Jr., on his promissory notes, proved before the auditors now sitting, then the said D. Man, Jr., shall have the option to consider this agreement null and void.

In witness whereof, we have hereunto set our hands and seals, this twenty-sixth day of January, A.D. one thousand eight hundred and forty-eight.

SUSAN RITTER, [SEAL.]
Executrix.

DANIEL MAN, JR. [SEAL.]

Sealed and delivered in the presence of us,
JACOB B. RITTER.

Know all men by these presents, that I, Susan Ritter, of the city of Philadelphia, and State of Pennsylvania, sole executrix of the estate of Jacob Ritter, Jr., late of the said city, deceased, one of the assignees of Abraham Peisch, have irrevocably made,

constituted, and appointed, and by these presents do irrevocably make, constitute, and appoint, Daniel Man, Jr., of the city of Philadelphia, aforesaid, my true and lawful attorney, for me and in my name to ask, demand, sue for, recover, and receive all sum and sums of money, dividends, claims, and demands belonging to the estate of Jacob Ritter, Jr., deceased, or his representatives, heretofore due, now due, hereafter to become due from, or arising out of the estate funds and assets of the estate of Abraham Peisch, or the surviving assignee of Abraham Peisch, Jacob Idler, in any manner or form whatever; giving and granting unto my said attorney, by these presents, my full and whole power, strength, and authority in and about the premises, to have, use, and take all lawful ways and means, in my name, in the said estate, for the purposes aforesaid, and, upon the receipt of any such debt, dues, or sums of money, as the case may be, acquittances or other sufficient discharges, for me and in my name, to make, seal, and deliver.

Hereby ratifying, allowing, and holding for firm and effectual all and whatsoever my said attorney shall lawfully do in and about the premises by virtue hereof, without the power of rescinding or annulling the same.

In witness whereof, I have hereunto set my hand and seal, this the twenty-sixth day of January, in the year of our Lord one thousand eight hundred and forty-eight.

SUSAN RITTER, [SEAL.]
Executrix.

Sealed and delivered in the presence of us,
JACOB B. RITTER,
GEO. W. ASH.

The twenty-sixth day of January, A. D. 1848, before me, one of the aldermen of the county of Philadelphia, came the above-named Susan Ritter, executrix, and acknowledged the above power of attorney to be her act and deed, and desires that the same may be recorded as such, according to law.

Witness my hand and seal, the day and year above written.

GEO. W. ASH, [SEAL.]
Alderman.

EXHIBIT 18.

Letter Ingll. and Dunlap to D. Man, 13th March, 1849.

Sir: We have received from the Treasurer of the United States, a treasury draft, on account of Mr. Charles F. Sibbald, for $12,658 75 cts., which was cashed and deposited yesterday, to our joint credit in the Philadelphia Bank.

As Mr. Sibbald himself, as attorney of Mr. A. G. Jaudon, assignee, by letter dated the 10th inst., has cautioned us against disbursing this money, and given us notice that he means to bring an action at law to recover it from us, and as it is quite out of our power to settle his and the other conflicting claims to it, we propose to file a trust account in the Court of Common Pleas of Philadelphia, thus affording to all parties the opportunity, at as little expense as possible, to make good their demands upon the fund.

Our account will be filed in a few days, and upon its going into court, we propose to apply for an order of investment, that the money may be at interest, instead of lying in bank.

Having learned informally that you consider yourself interested in this money, we give you this notice of our proceedings.

We are, very respectfully, your servants,

J. R. INGERSOLL,
T. DUNLAP.

Philadelphia, 13th March, 1849.

DANIEL MAN, Esq.

EXHIBIT 19.

[Copy.]

Deed of 12th May, 1849, as to Sibbald's estate.

For and in consideration of natural love and affection, and the further consideration of one dollar, to me in hand paid by my son, Daniel Man, Jr., of the city of Philadelphia, the receipt whereof is hereby acknowledged, I, Daniel Man, the elder, of the said city, have and by these presents do assign, transfer, and set over unto the said Daniel Man, Jr., all my right, title, interest, claims, demands, and dividends, due, or becoming due, to me in any manner whatsoever, from the estate of Matthew C. Ralston, deceased, from Charles F. Sibbald, or from the trust estate created by said Sibbald; or from his trustees, Joseph R. Ingersoll and Thomas Dunlap, Esquires; and I do herewith deliver over unto the said Daniel, Jr., all the promissory notes and certificates, or evidences of debt, drawn or indorsed by the said Matthew C. Ralston and Charles F. Sibbald, or either of them, and heretofore owned and held by me.

Witness my hand and seal, this 12th day of May, A. D. 1849.

DANIEL MAN. [SEAL.]

Witness: ROBERT HAYS.

May 12, 1849.

Exhibit 20.

Deed of 7th June, 1849, as to unimproved real estate.

This indenture, made the seventh day of June, in the year of our Lord one thousand eight hundred and forty-nine, between Daniel Man, of the city of Philadelphia, gentleman, of the one part, and Daniel Man, Junior, of the city of Philadelphia, gentleman, the son of the first above named Daniel Man, of the other part, witnesseth that the said Daniel Man, the elder, for and in consideration of the natural love and affection which he bears to his son, the said Daniel Man, Junior, and also for and in consideration of the sum of one dollar, lawful money of the United States of America, unto him well and truly paid by the said Daniel Man, Junior, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Daniel Man, Junior, his heirs and assigns, all and singular the following described lots of ground, now belonging to him, the said Daniel Man, to wit: All that certain lot or piece of ground situated on the east side of Second Street from the river Schuylkill, on the square between Walnut and Spruce Streets, in the city of Philadelphia, containing in front or breadth on said Second Street one hundred and eleven feet, and in length or depth of that breadth two hundred and forty-seven feet, bounded northward by ground now or late of Alexander Braidley, eastward by back part of Third Street lots, southward by ground of ———, and westward by Second Street aforesaid; the said lot being composed of two several lots of ground which Elizabeth Ozeas, Peter Ozeas, and Thomas Hennesey, administrator of George Ozeas, deceased, by indenture, dated the nineteenth day of December, one thousand eight hundred and eleven, and recorded at Philadelphia, in Deed-book J C, No. 18, page 144, &c., granted and conveyed unto the said Daniel Man in fee, subject, as to one of said lots, to a yearly rent-charge of twenty dollars, which said rent-charge has since been paid off and extinguished. Also, all that certain lot or piece of ground situated on the east side of Second Street from the river Schuylkill, in the city of Philadelphia, containing in front or breadth on said Second Street sixty feet, and in length or depth on Walnut Street two hundred and forty-seven feet, bounded northward by said Walnut Street, eastward by back lots, southward by ground now or late of Alexander Braidley, and westward by Second Street aforesaid; being the same lot of ground which John Kern, attorney in fact

for Isaac Thomas Heartle *et al.*, and Peter Ozeas, by their several indentures, each bearing date the eighth day of January, one thousand eight hundred and fourteen, and recorded at Philadelphia, in Deed-book J C, No. 28, pages 492, 498, and 578, granted and conveyed unto the said Daniel Man in fee. Also, all that certain lot or piece of ground situated on the east side of Broad Street, between Washington and Green Streets, in the District of Spring Garden, in the county of Philadelphia, containing in front or breadth on the said Broad Street one hundred and eighty feet and two inches, and extending eastward in length or depth on the north line thereof, along the said Washington Street, two hundred and forty-two feet and two inches; thence southward, at right angles to Washington Street, ninety feet one inch, to a point midway or equidistant from Washington and Green Streets; thence eastwardly, parallel with Green and Washington Streets, thirty-two feet eleven inches and seven-eighths of an inch, to ground late of Joseph Whetham, now of the said Daniel Man; thence southeastwardly, by the said ground, ninety-five feet nine inches and one-sixteenth of an inch, to Green Street; and thence westwardly, along said Green Street, three hundred and eight feet one inch and three-quarters of an inch, to Broad Street aforesaid; bounded northward by said Washington Street, eastward by ground now or late of Joseph Whetham and other ground of the said Daniel Man, southward by Green Street, and westward by Broad Street aforesaid; the said lot of ground being part of three several lots of ground which Henry Morris, high sheriff of the city and county of Philadelphia, by three certain deed polls, each bearing date the sixth day of November, one thousand eight hundred and forty-one, and duly acknowledged in open District Court for the said city and county, and entered among the records thereof, in Book L, and pages ——, granted separately unto the said Daniel Man in fee. And also, all that certain triangular lot or piece of ground adjoining the last above described lot, beginning at a point on the north side of Green Street, at the distance of two hundred and nineteen feet ten inches and one-fourth of an inch westward from the west side of Thirteenth Street; thence extending northward, at right angles, to Green Street, ninety feet one inch, to a point midway or equidistant from Green and Washington Streets; thence westwardly, parallel with Green and Washington Streets, thirty-two feet eleven inches and seven-eighths of an inch, to other ground of the said Daniel Man; and thence southeastwardly, by said ground, ninety-five feet nine inches and one-sixteenth of an inch, to the place of beginning; bounded on the east and north by ground now or late of Joseph Whetham,

and southwestwardly by other ground of the said Daniel Man; being the same lot of ground which Joseph Whetham and Elizabeth, his wife, by indenture, dated the second day of April, one thousand eight hundred and forty-seven, and recorded at Philadelphia, in Deed-book A W M, No. 52, page 290, &c., granted and conveyed unto the said Daniel Man in fee. Also, all that certain lot of ground situated on the north side of Mulberry Street, at the distance of ninety-nine feet westward from Schuylkill Eighth Street, in the city of Philadelphia, containing in front or breadth on said Mulberry Street forty-nine feet six inches, and in length or depth northward two hundred and eighty-eight feet to Cherry Street; bounded northward with said Cherry Street, eastward with ground formerly of Anthony Moore, southward with Mulberry Street, and westward with ground now or late of George B. Reese; being the same lot of ground which John Connelly and others, inspectors of the prison in the city of Philadelphia, by deed poll duly executed, bearing date the fourth day of April, one thousand eight hundred and eight, and recorded at Philadelphia, in Deed-book A W M, No. 48, page 104, &c., granted and conveyed unto Daniel Man in fee; together with all and singular the ways, waters, watercourses, rights, liberties, privileges, hereditaments, and appurtenances whatsoever, thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand whatsoever of him, the said Daniel Man, either at law, equity, or otherwise howsoever, of, in, and to the same, and every part thereof; to have and to hold the said lot or piece of ground above described, hereditaments and premises hereby granted or mentioned, and intended so to be, with the appurtenances, unto the said Daniel Man, Junior, his heirs and assigns, to and for the only proper use and behoof of the said Daniel Man, Junior, his heirs and assigns forever. And the said Daniel Man, for himself, his heirs, executors, and administrators, doth by these presents covenant, grant, and agree, to and with the said Daniel Man, Junior, his heirs and assigns, that he, the said Daniel Man, and his heirs, all and singular the hereditaments and premises hereinabove described and granted or mentioned, and intended so to be, with the appurtenances, unto the said Daniel Man, Junior, or his heirs and assigns, against him, the said Daniel Man, and his heirs, and against all and every other person or persons whomsoever, lawfully claiming or to claim the same or any part thereof, by, from, or under him, them, or any of them, shall and will, by these presents, warrant and forever defend. In witness whereof, the said parties to these presents have here-

unto interchangeably set their hands and seals, dated the day and year first above written.

DANIEL MAN. [SEAL.]

Sealed and delivered in the presence of us,
C. SCHNECK,
JOHN A. ELKINTON.

The eighth day of June, A.D. 1849, before me, the subscriber, an alderman of the city of Philadelphia, came the above-named Daniel Man, and acknowledged the above-written indenture to be his act and deed, and desired the same may be recorded as such. Witness my hand and seal, the day and year aforesaid.

JOHN A. ELKINTON, [SEAL.]
Alderman.

Recorded December 31st, 1851.

CITY AND COUNTY OF PHILADELPHIA, *ss.*

I, Thomas Helm, recorder of deeds, &c. for the said city and county of Philadelphia, do hereby certify that the above and foregoing is a true and correct copy of a certain instrument of writing remaining of record in my office, in Deed-book T H, No. 2, page 303, &c.

Witness my hand and seal of office, this fourteenth day of April, A.D. 1853.

[SEAL.] THOS. HELM,
Recorder.

EXHIBIT 21.

Receipts of Wm. Kirk, 2d July, 1849, 5th January, 1850, 8th July, 1850.

Rec'd, 2d July, 1849, from Mr. Wm. Kirk, seventy-five dollars, in full for one half year's rent, due 1st inst.

$75. DANIEL MAN,
by his att'y in fact,
DANIEL MAN, JR.

Rec'd, 5th Jan., 1850, from Mr. William Kirk, seventy-five dollars, in full for 6 months' rent, due 1st inst.

$75. DANIEL MAN,
by his att'y in fact,
DANIEL MAN, JR.

Rec'd, 8th July, 1850, from Mr. Wm. Kirk, seventy-five dollars, for 6 months' rent, due 1st inst.

$75. DANIEL MAN,
by his att'y in fact,
DANIEL MAN, JR.

The above-named complainant, before the filing of the foregoing bill, adds thereto the following averment, to form part thereof in the same manner as if originally inserted therein.

The defendant, Louisa S. Anson, in the bill named, since the engrossment thereof, has intermarried with one Evelyn Gasper, who, as the complainant is advised, should be made a party defendant in this cause in like manner as if his name had been originally inserted in the said bill, and as if process against him and the other defendants therein named had been prayed therein, and relief prayed accordingly.

The complainant therefore prays that the foregoing additions be taken as part of the said bill, and that in the process of subpœna, and such other process as may be issued, the names of the said Evelyn Gasper, and Louisa S. Gasper, his wife, be inserted as defendants in place of the name of Louisa S. Anson, as originally prayed.

And he will pray, &c.

CADWALADER,
For Complainant.

To the Judges of the Court of Common Pleas of Philadelphia County sitting in Equity.

The petition of William Man, the complainant, in a certain cause hereinafter mentioned, respectfully showeth,—

That at his suit the following named defendants, that is to say, John Jordan, Jr., executor of the testament of Daniel Man, the elder, deceased, and one of the executors of the testament of Daniel Man, the younger, deceased, the said Daniel Man, the younger, having in his lifetime been executor of the testament of the said Daniel Man, the elder, and the said Jordan being also trustee of the assigned estate of Abraham Peisch; Samuel W. Paul, the other executor of the testament of Daniel Man, the younger, deceased; Louisa S. Arnel otherwise called Louisa S. Anson, Edward S. Anson, George Ernest Anson, Walter Anson, and Jane Anson, the four last named being minors; Daniel Man King, then a minor, and Robert Hays, then his guardian; George Earp, the younger, substituted trustee of the estate of John B. Foussat and Harvey Hand, administrator, &c., of the said Foussat, were impleaded in the said court by a certain bill in Equity, to June term, 1855, No. 4, in which cause a subpœna, returnable

the first Monday of June, 1855, was duly issued, as by the said bill and subpœna will on reference thereto appear.

That the said Louisa S., who either before or after the filing of the said bill, was duly appointed by the Orphans' Court of the said county guardian of the said four minors Anson, and is now their guardian, removed, without the complainant's knowledge, out of the jurisdiction of the court, taking with her the said four minors, who thus also removed out of the said jurisdiction. That the said Louisa S. afterwards intermarried with one Evelyn Gasper, who is since deceased, leaving her, his widow, surviving him.

That the said Daniel Man King is now of full age.

That the said subpœna never was served or executed by reason of the said removal of the said Louisa S., and of the said four minors Anson. The complainant prays that process may issue to make them parties to the said bill, if they should come within the jurisdiction of the court, or otherwise; that the court will proceed in the cause without making them parties, and to make the decree prayed in the bill, without prejudice to their rights as absent parties; and that the said bill may be amended, and the same shall be deemed and taken to be hereby amended by the insertion of the matters hereinbefore averred, as if contained in the bill originally exhibited as aforesaid; and he hereby adds the said matters to the averments therein contained, and he prays that new process may be issued, directed to the said Louisa S. Gasper Edward S., George Ernest, Walter and Jane Anson, if they shall come within the jurisdiction of the court, and directed absolutely to the said John Jordan, Jr., executor as aforesaid, Samuel W. Paul, executor as aforesaid, Daniel Man King, George Earp, the younger, and Harvey Hand, administrators as aforesaid.

And he will pray, &c.

CADWALADER,
For Complainant.

Issue process of subpœna as above.

CADWALADER,
For Complainant.

The answer of Edward S. Man, George Earnest Man, Walter Man, and Jane Man, minors, who, in the bill of complaint, are named and called Anson, by their guardian *ad litem*, Louisa Gasper, to the bill of complaint of William Man.

These defendants reserving to themselves all, and all manner of exception to the said bill for answer thereto, say—

They are ignorant of all the matters and things in the said bill alleged, further than they are informed that they are entitled to

the property and estate which belonged to Daniel Man, the younger, at the time of his death, and which was devised and bequeathed to them under his said will.

And inasmuch as by reason of their infancy, they are not permitted or required by the law to make any admissions, nor to deny specifically, any of the allegations of the bill, they therefore pray that their answer may be deemed and taken as a denial of the same, and that the said complainant may be put to the proof of his said allegations, so far as he may deem them to be material.

And these defendants submit themselves to the protection and judgment of the honorable court, and pray that they may be hence dismissed with their reasonable costs and charges by them most wrongfully incurred.

Louisa Gasper, the guardian of the said defendants, being duly sworn, says, the facts in the foregoing answer, so far as they relate to matters within her knowledge, are true, and so far as they relate to the acts and doings of any other person, she believes them to be true.

Sworn and subscribed this twenty-seventh day of January, A. D., 1858, before me,

JNO. B. KENNY,
Alderman.

LOUISA S. GASPER.

The answer of Louisa S. Gasper, widow, and who, in the bill of William Man, is named a defendant by the name and style of Louisa S. Arnel, otherwise called Louisa S. Anson, to the bill of complaint of the said William Man.

This defendant, reserving to herself all, and all manner of exceptions to the said bill by reason of its manifold defects, for answer thereto, or to so much as she is advised it is material or necessary for her to answer, saith—That it is true that Daniel Man, the elder, did die at the time and place stated in the bill, in the ninety-first year of his age. That she believes that the statements respecting the family of the said Daniel Man, at the time of his decease, are true. That she believes the said Daniel Man did leave a will and codicils, as stated in the bill, but being ignorant of their contents, she prays that the same may be produced and proved for greater certainty. She believes that Daniel Man, the younger, the then husband of this defendant, did prove the same, and that letters testamentary were issued to him, and that an inventory was filed by him. But this defendant has no knowledge or information on the subject but vague rumor, and she prays that the same may be proved if deemed material.

This defendant has no knowledge, information, or belief on the subject of the alleged frauds, in the making of the said inventory,

and she therefore denies the same, being advised that she has a right to put the complainant to proof of this and all similar allegations of facts, of which this defendant has not had any means of ascertaining the truth of the same.

That as to the allegations in the said bill of the fraud and fraudulent contrivances of the said Daniel Man, the younger, to obtain the property of his father for his own use, and as to the cruel and unkind statements respecting the relations of this defendant, and her children to him, the said Daniel Man, the younger, and which appears to have been inserted for no other purpose than to endeavor to excite a prejudice against the defendant and her children, this defendant will state such facts as are in her knowledge respecting the same, and must content herself with a general denial of all others of which she is, and always was, wholly ignorant, if such acts were done and practiced by her husband.

When this defendant was about the age of nine years, she was an intimate friend of Mrs. Jane King, a daughter of Daniel Man, the elder, and through that intimacy became acquainted with Daniel Man, the younger. Sometime afterwards, viz., in 1843, the said Daniel Man, the younger, proposed that a marriage should take place between himself and this defendant, to which she assented. Deponent at that time being but sixteen years of age, the said Daniel Man, the younger, persuaded her that the same should be solemnized at a distance from home, assigning as a reason that his father would not consent to the marriage, and that it would be essential to his interests to conceal the fact from his father. This defendant reluctantly consented, being overcome by the solicitations and representations of the said Daniel Man, the younger. Accordingly, in the month of August, A. D. 1843, the said Daniel Man, the younger, and this defendant, went to New England, and there, near Cape Elizabeth, which is near, or in the town of Portland, were married.

At that time, and during their subsequent journey, this defendant was introduced to the friends of the said Daniel Man, Jr., under a fictitious name, as his wife, except at the Water Gap, in this State, where they went by their proper name of Man. On their return to Philadelphia it became necessary, in order to preserve the secret from the father, that they should live under a feigned name. Accordingly a house was taken for defendant in Twelfth Street, at the corner of Willow, where defendant and her husband continued to reside under the name of Mr. and Mrs. Anson.

Their style of living was extremely moderate, for various reasons, chiefly from a desire to keep their expenditure within their means.

This defendant avers, that the annual expense of the household, including her own, did not exceed eight hundred dollars per annum, till within two years, and then it was increased to twelve hundred dollars per annum, during which time they received from her father's estate three thousand dollars, which was all expended.

This concealment was kept up until after the death of Daniel Man, the elder, and the residence was continued until the death of Daniel Man, the younger. It being the intention of the said Daniel Man, Jr., to take this respondent and all his family to Europe, so soon as he could settle his affairs, it was by him thought best not to make any change until after they had left this country, when it was his intention to declare his marriage.

As to the reasons which could have induced the elder Daniel Man to make such a disposition of his estate as he did, both by deeds and will, this deponent will state such circumstances as appear to have been the reason for his acts, if it is necessary to assign or discover reasons for such acts.

The said Daniel Man, the elder, was an Englishman by birth, and excessively desirous of amassing property.

His eldest son had always lived with him, and been attentive to his wishes, and mainly devoted his time to attending to such matters of business as his father chose to employ him in.

The younger, and only other son, William, the complainant, had been from his youth, a source of trouble and vexation, having, when quite a youth, been detected in a crime which disgusted his father, and owing to which, as the defendant believes she will be able to prove, the father at various times, long before his death, advanced him, or paid others for him, large sums of money, which he deemed a full share of the estate he was entitled to receive.

The character of the said William Man, so far as this defendant is informed, or has reason to believe, did not change, nor had his father any reason, at the time of his death, to alter his opinion of him.

Defendant believes it very probable that the father, in making his gifts to his son, did design to retain the use of all the property during his life, and was permitted to deal with the property as his own, after the gifts were made of the real estate. But she believes that in respect of the gifts of property which was in litigation, they were given because they were not required for the father, and were uncertain in value, and the source of great annoyance and vexation in attending to the requisite litigation.

As to the averment of any incapacity of the father to read the documents which were signed by him, this defendant is informed, and believes, that up to a very short period before his death, and

long after the papers were executed, the father was capable, and was in the constant habit of reading a book printed in type of a size commonly used by persons of his time of life.

In making these statements as to the motives which led the father thus to prefer one son above his other child and grandchild, this defendant does not pretend to do more than assign probable reasons, and such facts as are within her knowledge, which, she submits, shows that the alleged frauds could not have been committed upon him.

As to any alleged suppression of books and papers, and the alterations in the said book of accounts, this defendant has never seen the said book alleged to have been falsified; she is informed, and avers, that after the death of her husband, these were in the custody or within the control of the said William Man for a considerable period of time, but she cannot, and does not know anything concerning the said falsification, and she prays that the same may be proved if they are deemed material.

And as respects the property in the bill mentioned, consisting of forty houses purchased from T. Dyott, this defendant insists, that even supposing the statements to be true, as are in the bill alleged, in respect of the supposed trust that the complainant claiming under the said Daniel Man, the elder, cannot be heard to assert his claim in respect of the same, inasmuch as after the said conveyance to Daniel Man, the younger, and which remained uncancelled and unaltered by re-conveyance to Daniel Man, the elder, he, the said Daniel Man, the elder, did, in the action of ejectment in which the same was ultimately recovered, testify that the said conveyance was an absolute conveyance, and without any trust reserved; and that he, the said Daniel Man, the elder, had no interest in the subject-matter of the controversy, which testimony was untrue, if the alleged trust existed; and if it did not then exist, there is no pretence that any trust was created afterwards.

Wherefore, whether the same be regarded as evidence only, or as binding on those claiming under the said Daniel Man, the elder, this defendant insists that they are concluded from averring any secret trust or interest in respect of the said property, or any change thereon, in him, the said Daniel Man, the elder, contrary to his conveyances and his own testimony in a matter involving the title to the said property.

And not waiving this objection, this defendant insists upon the validity of the several gifts and conveyances by the said Daniel Man, the elder, to Daniel Man, the younger, as valid and effectual, and she humbly prays that her ignorance and incapacity to ascertain the truth of the innumerable allegations of fraudulent con-

duct on the part of her deceased husband, Daniel Man, the younger, and her consequent inability to answer the said charges more fully and directly, may not be deemed or taken as an admission or concession on her part of their truth, which she could not conscientiously make, but that she may be protected by the court in as far as she will be deemed entitled to protection, after the evidence on the part of the complainant shall have been heard, and the actual truth of the case ascertained.

To the interrogatories which she, the said defendant, is required to answer, she says,—

To the First. That she admits the facts inquired of herein to be as they are alleged in the bill.

To the Second. She makes the like admission, saving the statement as to the valuation of the inventory of D. Man, the elder's estate, of which she has no knowledge.

To the Fifth. She makes the like admission.

To the Sixth. She makes the like admission.

To the Seventh. She makes the like admission, reserving the right to correct any errors, if there are such in the copies.

To the Ninth. She makes the like admission.

To the Thirteenth. She has no knowledge, information, or belief on the subjects of this interrogatory.

To the Fourteenth. She makes the like answer.

To the Fifteenth. She makes the like answer.

To the Sixteenth. She makes the like answer.

To the Seventeenth. She makes the like answer.

To the Eighteenth. She makes the like answer.

To the 28th, 29th, 30th, 32d, 33d, 34th, 36th. She makes the like answers.

To the 37th. She says that she believes Daniel Man, the elder, did make such a conveyance to Daniel Man, the younger, as is referred in this interrogatory.

To the 42d. She says she has no knowledge, or information, or belief on the subject of this interrogatory.

To the 45th Interrogatory. She makes the same answer.

To the 46th Interrogatory. She makes the same answer.

To the 48th Interrogatory. She makes the same answer.

To the 55th Interrogatory. She makes the same answer.

All which matters and things are true without this, that they are any other matters or things in the said bill contained, and not herein well and sufficiently confessed and avoided, traversed and denied, are true, as this defendant will maintain and prove.

And this defendant prays that she may be hence dismissed, with her reasonable costs and charges, in this behalf most wrongfully sustained.

Louisa S. Gasper, the defendant, being duly sworn, says, the facts in the foregoing answer, so far as they relate to the acts and doings of any other person, she believes them to be true.

Sworn and subscribed this twenty-seventh day of January, A. D., 1858, before me,

JNO. B. KENNY,
Alderman.

LOUISA S. GASPER.

The replication of William Man to the answer of Edward S. Anson, George Ernest Anson, Walter Anson, and Jane A. Anson, by their guardian of Louisa Gasper to the bill of complaint of William Man.

This repliant, saving and reserving unto himself all, and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant. Without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is, and will be ready to aver and prove, as this honorable court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

CADWALADER,
For Complainant.

The replication of William Man to the answer of Louisa S. Gasper to the bill of complaint of William Man.

This repliant, saving and reserving unto himself all, and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant. Without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is, and will be ready to aver and prove, as this honorable court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

CADWALADER,
For Complainant.